

FRIDAY, MAY 20, 2011

THIRTY-EIGHTH LEGISLATIVE DAY

CALL TO ORDER

The Senate met at 8:30 a.m., and was called to order by Mr. Speaker Ramsey.

PRAYER

The proceedings were opened with prayer by Senator Watson.

PLEDGE OF ALLEGIANCE

Senator Watson led the Senate in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present 33

Senators present were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--33.

PRESENTATION

Senator McNally presented **Senate Joint Resolution No. 308** to Madam Speaker Pro Tempore Woodson.

MOTION

Senator Norris moved, pursuant to Rule 32 and Article II, Section 18 of the Constitution of the State of Tennessee, **House Bills Nos. 110, 172, 914, 991, 1023, 1358, 1378, 1641, 1834, 1989, 1994, 1995, 2007, 2135, 2136, 2138, 2139, 2152, 2154, 2156 and 2158** be passed on first consideration, which motion prevailed.

HOUSE BILLS ON FIRST CONSIDERATION

The Speaker announced that the following House Bills were transmitted to the Senate and passed first consideration:

House Bill No. 110 -- Students -- As introduced, requires parents of truant students to attend counseling, mentoring, or parenting classes; requires truant students to receive counseling or mentoring; alters community service requirement for parents or guardians of truant students adjudicated unruly; creates task force on truancy. Amends TCA Title 49, Chapter 6, Part 30.

House Bill No. 172 -- Criminal Offenses -- As introduced, enacts the "National Human Trafficking Resource Center Hotline Act". Amends TCA Title 39, Chapter 13, Part 3.

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House Bill No. 914 -- Highways, Roads and Bridges -- As introduced, extends time period, from current 60 days to 75 days of taking office, within which new chief administrative officer of county highway system must submit inventory of equipment to county legislative body. Amends TCA Title 54.

House Bill No. 991 -- Sheriffs -- As introduced, increases specific fees authorized for sheriffs and constables. Amends TCA Section 8-21-901.

House Bill No. 1023 -- Naming and Designating -- As introduced, designates welcome center at Exit 9 on Interstate 26 in Unicoi County as the "Zane Whitson Welcome Center".

House Bill No. 1358 -- Civil Procedure -- As introduced, declares that a moving party prevails on a motion for summary judgment if it submits affirmative evidence negating an element of a nonmoving party's claim or demonstrates that the nonmoving party's evidence is insufficient to establish an essential element. Amends TCA Title 20.

House Bill No. 1378 -- Immigration -- As introduced, enacts the "Tennessee Lawful Employment Act". Amends TCA Title 3; Title 4; Title 5; Title 6; Title 7; Title 8; Title 12; Title 39 and Title 50.

House Bill No. 1641 -- Civil Procedure -- As introduced, establishes a framework for the consideration of evidence offered during all stages of the proceedings in employment discrimination and retaliation cases. Amends TCA Title 4 and Title 50.

House Bill No. 1834 -- Financial Responsibility Law -- As introduced, increases penalty for failing to provide evidence of financial responsibility from \$100 fine to \$250 fine for first offense and \$500 fine and mandatory impoundment of driver's motor vehicle for second or subsequent offense. Amends TCA Title 55, Chapter 12; Title 55, Chapter 16 and Title 55, Chapter 4.

House Bill No. 1989 -- Schools, Charter -- As introduced, allows any student in the charter school's jurisdiction to attend the school; authorizes the achievement school district to approve applications to create charter schools; removes the cap on the number of charter schools in the state. Amends TCA Title 49, Chapter 13.

House Bill No. 1994 -- Taxes -- As introduced, revises various tax provisions including provisions regarding gains on sales of assets designated as goodwill and Class VII assets, local option taxes with respect to industrial and farm machinery, sales tax credits to dealers, and electronic tax return filings and payments. Amends TCA Title 55; Title 67 and Chapter 1134 of the Public Acts of 2010.

House Bill No. 1995 -- Taxes, Inheritance Gift -- As introduced, revises the manner in which a person may request an extension to file gift tax returns and specifies that the extension would be for six months. Amends TCA Title 7; Title 49; Title 55; Title 57 and Title 67.

House Bill No. 2007 -- Insurance Companies, Agents, Brokers, Policies -- As introduced, enacts the "Amended and Restated Tennessee Captive Insurance Act". Amends TCA Title 56, Chapter 13.

House Bill No. 2135 -- Bond Issues -- As introduced, authorizes the state to issue and sell bonds of up to \$273 million.

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House Bill No. 2136 -- Budget Procedures -- As introduced, authorizes the index of appropriations from state tax revenues for 2010-2011 fiscal year to exceed the index of estimated growth in the state's economy by \$250 million or 2.15 percent. Amends TCA Title 9, Chapter 4, Part 52.

House Bill No. 2138 -- Appropriations -- As introduced, assigns the state employee staff responsible for the administration of the group insurance for state officials and employees to the Department of Finance and Administration; requires that grant payments under the grant assistance program for nursing home care be made monthly or quarterly instead of monthly. Amends TCA Title 3; Title 4; Title 5; Title 6; Title 7; Title 8; Title 9; Title 11; Title 12; Title 13; Title 16; Title 17; Title 18; Title 29; Title 30; Title 33; Title 37; Title 38; Title 39; Title 40; Title 41; Title 43; Title 45; Title 47; Title 48; Title 49; Title 50; Title 53; Title 54; Title 55; Title 56; Title 57; Title 58; Title 59; Title 60; Title 62; Title 63; Title 64; Title 65; Title 66; Title 67; Title 68; Title 69; Title 70 and Title 71.

House Bill No. 2139 -- Appropriations -- As introduced, makes appropriations for fiscal years beginning July 1, 2010, and July 1, 2011.

House Bill No. 2152 -- Jonesborough -- As introduced, subject to local approval, modernizes the city charter. Amends Chapter 135 of the Acts of 1903; as amended.

House Bill No. 2154 -- Cumberland County -- As introduced, subject to local approval, increases the hotel / motel tax from an amount not to exceed 5% to an amount not to exceed 7.5%. Amends Chapter 145 of the Private Acts of 1979.

House Bill No. 2156 -- Unemployment Compensation -- As introduced, extends certain period relating to eligibility for unemployment compensation benefits in accord with option provided by Public Law 111-132. Amends TCA Title 50, Chapter 7.

House Bill No. 2158 -- Bond Issues -- As introduced, authorizes the state to issue and sell bonds of up to \$150 million.

MOTION

Senator Norris moved, pursuant to Rule 21, **Senate Joint Resolutions Nos. 454, 455 and 457 through 459**; and **Senate Resolutions Nos. 64 and 65** be passed on first consideration and lie over, which motion prevailed.

INTRODUCTION OF RESOLUTIONS

The Speaker announced that the following resolutions were filed for introduction. Pursuant to Rule 21, the resolutions lie over.

Senate Joint Resolution No. 454 by Senator Herron.
Memorials, Professional Achievement -- Elisa Luna.

Senate Joint Resolution No. 455 by Senator Herron.
Memorials, Public Service -- Terry J. Oliver.

Senate Joint Resolution No. 457 by Senator Herron.
General Assembly, Statement of Intent or Position -- As introduced, directs TDOT to designate State Route 22 from Martin to Union City as an interstate highway link to I-69.

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Senate Joint Resolution No. 458 by Senator Haynes.

Naming and Designating -- "James A. Oldham Life Skills and Recreation Center", Tennessee School for the Blind.

Senate Joint Resolution No. 459 by Senators Finney and Herron.

Memorials, Death -- Gary Bush.

Senate Resolution No. 64 by Senator Beavers.

Memorials, Death -- Specialist Michael Lane Stansbery, Jr.

Senate Resolution No. 65 by Senator Haynes.

Memorials, Interns -- Andrew Stevens.

MOTION

Senator Norris moved, pursuant to Rule 21, **House Joint Resolutions Nos. 198, 281, 350 and 351** lie over and be referred to the appropriate committees or held on the Clerk's desk, which motion prevailed.

RESOLUTIONS LYING OVER

The Speaker announced that the following resolutions passed second consideration and were referred to the appropriate committees or held on the desk, pursuant to Rule 21:

House Joint Resolution No. 198 -- Highway Signs -- "Pfc. Joseph L. Meade Memorial Bridge", spanning U.S. Highway 23 in Sullivan County.

The Speaker announced that he had referred House Joint Resolution No. 198 to the Committee on Transportation and Safety.

House Joint Resolution No. 281 -- Highway Signs -- "Roy L. Worthington Memorial Overpass", Interstate 24 at Exit 114.

The Speaker announced that he had referred House Joint Resolution No. 281 to the Committee on Transportation and Safety.

House Joint Resolution No. 350 -- General Assembly, Confirmation of Appointment -- W. Harold Cannon, Jr., Tennessee Wildlife Resources Commission.

The Speaker announced that he had referred House Joint Resolution No. 350 to the Committee on Energy and Environment.

House Joint Resolution No. 351 -- General Assembly, Confirmation of Appointment -- Robert S. Qualman, State Forestry Commission.

The Speaker announced that he had referred House Joint Resolution No. 351 to the Committee on Energy and Environment.

MOTION

Senator Faulk moved that Rule 19 and Rule 38 be suspended for the purpose of making and considering Consent Calendar No. 1 consisting of the following resolutions: **Senate Joint Resolutions Nos. 454, 455, 458 and 459**; and **Senate Resolutions Nos. 64 and 65**, which motion prevailed.

CONSENT CALENDAR NO. 1

Senate Joint Resolution No. 454 -- Memorials, Professional Achievement -- Elisa Luna.

Senate Joint Resolution No. 455 -- Memorials, Public Service -- Terry J. Oliver.

Senate Joint Resolution No. 458 -- Naming and Designating -- "James A. Oldham Life Skills and Recreation Center", Tennessee School for the Blind.

Senate Joint Resolution No. 459 -- Memorials, Death -- Gary Bush.

Senate Resolution No. 64 -- Memorials, Death -- Specialist Michael Lane Stansbery, Jr.

Senate Resolution No. 65 -- Memorials, Interns -- Andrew Stevens.

Senator Faulk moved that all Senate Joint Resolutions and Senate Resolutions be adopted, which motion prevailed by the following vote:

Ayes	32
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--32.

A motion to reconsider was tabled.

MOTION

Senator Faulk moved that Rule 19 and Rule 38 be suspended for the purpose of making and considering Consent Calendar No. 2 consisting of the following bills and resolutions: **Senate Bills Nos. 1112, 1650 and 1963**; and **Senate Joint Resolution No. 141**, which motion prevailed.

CONSENT CALENDAR NO. 2

Senate Bill No. 1112 -- Juvenile Offenders -- As introduced, amends various provisions regarding the transfer of juveniles to adult court and the Department of Children's Services custody of such children; authorizes communication between the adult court and the juvenile court; clarifies provisions on home placement supervision of juveniles. Amends TCA Title 37, Chapter 1, Part 1.

On motion, Senate Bill No. 1112 was made to conform with **House Bill No. 713**.

On motion, House Bill No. 713, on same subject, was substituted for Senate Bill No. 1112.

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Senate Bill No. 1650 -- Education -- As introduced, specifies that temporary absence of a member of a county board of education to serve in the military does not constitute a vacancy in office and is not subject to provisions of the code requiring a temporary replacement. Amends TCA Section 49-2-202.

On motion, Senate Bill No. 1650 was made to conform with **House Bill No. 1909**.

On motion, House Bill No. 1909, on same subject, was substituted for Senate Bill No. 1650.

Senate Bill No. 1963 -- Animal Control -- As introduced, prohibits local governments from placing restrictions on the keeping of honeybees in hives. Amends TCA Title 44, Chapter 15.

On motion, Senate Bill No. 1963 was made to conform with **House Bill No. 1671**.

On motion, House Bill No. 1671, on same subject, was substituted for Senate Bill No. 1963.

Senate Joint Resolution No. 141 -- Constitutional Amendments -- Requests the Congress of the United States to submit to the states for ratification an amendment to restrict judicial activism among federal judges.

Senator Faulk moved that all Senate Joint Resolutions be adopted; and all House Bills be passed on third and final consideration, which motion prevailed by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

MOTION

Senator Faulk moved that Rule 19 and Rule 38 be suspended for the purpose of making and considering the Local Bill Calendar consisting of the following bills: **Senate Bills Nos. 2115 and 2116**, which motion prevailed.

LOCAL BILL
CONSENT CALENDAR

Senate Bill No. 2115 -- School Districts, Special -- As introduced, changes method of electing the five members of the South Carroll County Special School District board of education from election of one member from each of five districts to election of all members on a district wide basis. Amends Chapter 278 of the Private Acts of 1955; as amended.

On motion, Senate Bill No. 2115 was made to conform with **House Bill No. 2155**.

On motion, House Bill No. 2155, on same subject, was substituted for Senate Bill No. 2115.

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Senate Bill No. 2116 -- Rockwood -- As introduced, subject to local approval, authorizes city to set criteria for awarding contracts by ordinance, rather than by charter provision, in accordance with the Municipal Purchasing Law. Amends Chapter 327 of the Acts of 1903; as amended.

On motion, Senate Bill No. 2116 was made to conform with **House Bill No. 2157**.

On motion, House Bill No. 2157, on same subject, was substituted for Senate Bill No. 2116.

Senator Faulk moved that all House Bills be passed on third and final consideration, which motion prevailed by the following vote:

Ayes	32
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--32.

A motion to reconsider was tabled.

MOTION

Senator Faulk moved that Rule 19 and Rule 37 be suspended for the purpose of making and considering Calendar No. 1 consisting of the following bills and resolutions: **Senate Bills Nos. 544, 1234, 1269, 1299, 1400, 1456, 49, 2042 and 1284; House Bill No. 334; Senate Bills Nos. 1521 and 1745; House Bill No. 1120; Senate Bills Nos. 42, 650, 672, 771, 772, 837, 1109, 1110, 1152, 1224, 1243, 1273, 1348, 1449, 1529, 1707, 1740, 1748 and 1915; Senate Joint Resolution No. 119; Senate Resolution No. 26; Senate Bill No. 2107; House Bill No. 966; and Senate Bill No. 992**, which motion prevailed.

CALENDAR NO. 1

Senate Bill No. 544 -- Disabled Persons -- As introduced, requires by July 1, 2013, that all businesses that provide disabled parking spaces also provide van-accessible parking spaces. Amends TCA Section 55-21-105.

On motion, Senate Bill No. 544 was made to conform with **House Bill No. 1246**.

On motion, House Bill No. 1246, on same subject, was substituted for Senate Bill No. 544.

On motion of Senator Tracy, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 1246** passed its third and final consideration by the following vote:

Ayes	29
Noes	0

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Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Crowe, Faulk, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--29.

A motion to reconsider was tabled.

Senate Bill No. 1234 -- Criminal Procedure -- As introduced, abolishes pretrial diversion and alters the definition of "qualified defendant" for probation purposes. Amends TCA Title 39; Title 40 and Title 41.

Senator Haynes declared Rule 13 on **Senate Bill No. 1234**.

Senator Barnes declared Rule 13 on **Senate Bill No. 1234**.

On motion, Senate Bill No. 1234 was made to conform with **House Bill No. 694**.

On motion, House Bill No. 694, on same subject, was substituted for Senate Bill No. 1234.

Senator Beavers moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting Sections 1 and 3 in their entirety and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 40-15-105, is amended by deleting subdivision (a)(1)(B) and substituting instead the following:

(B) For purposes of this section, "qualified defendant" means a defendant who meets each of the following requirements:

(i) The defendant has not previously been granted pretrial diversion under the provisions of this chapter or judicial diversion under the provisions of § 40-35-313;

(ii) The defendant does not have a prior conviction for a Class A or B misdemeanor or for any class of felony; and

(iii) The charged offense for which the prosecution is being suspended is not a felony or any of the following offenses:

(a) Driving under the influence of an intoxicant as prohibited by § 55-10-401;

(b) Any misdemeanor sexual offense prohibited by Title 39, Chapter 13, Part 5;

(c) Conspiracy, under § 39-12-103, to commit any Class E felony sexual offense prohibited by Title 39, Chapter 13, Part 5;

(d) Criminal attempt, under § 39-12-101, to commit any Class E felony sexual offense prohibited by Title 39, Chapter 13, Part 5; or

(e) Solicitation, under § 39-12-102 to commit any Class E or Class D felony sexual offense prohibited by Title 39, Chapter 13, Part 5.

SECTION 3. This act shall not apply to the eligibility of a person for suspension of prosecution pursuant to Title 40, Chapter 15, Part 1 if the offense for which such person is charged was committed prior to July 1, 2011. The law in effect at the time shall govern such person.

SECTION 4. This act shall take effect on July 1, 2011, the public welfare requiring it and shall govern the eligibility of a person for suspension of prosecution pursuant to Title 40, Chapter 15 for any person charged with an offense that was committed on or after the effective date.

On motion, Amendment No. 1 was adopted.

Thereupon, **House Bill No. 694**, as amended, passed its third and final consideration by the following vote:

Ayes	32
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--32.

A motion to reconsider was tabled.

Senate Bill No. 1269 -- DUI Offenses -- As introduced, provides that if a person commits a DUI-related offense while on release for a DUI-related offense, the court or judicial commissioner may set conditions on the bond to eliminate the danger posed by the defendant. Amends TCA Title 40, Chapter 11.

On motion, Senate Bill No. 1269 was made to conform with **House Bill No. 718**.

On motion, House Bill No. 718, on same subject, was substituted for Senate Bill No. 1269.

On motion of Senator Beavers, Amendment No. 1 was withdrawn.

On motion of Senator Beavers, Amendment No. 2 was withdrawn.

Thereupon, **House Bill No. 718** passed its third and final consideration by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

Senate Bill No. 1299 -- Civil Procedure -- As introduced, amends the requirement of advertisement for judicial or trust sales to one publication in the county where the sale is to be made and alters the description required in such advertisement. Amends TCA Title 35, Chapter 5.

Senator Norris declared Rule 13 on **Senate Bill No. 1299**.

Senator Johnson declared Rule 13 on **Senate Bill No. 1299**.

Senator Southerland declared Rule 13 on **Senate Bill No. 1299**.

Senator Haynes declared Rule 13 on **Senate Bill No. 1299**.

Senator Faulk declared Rule 13 on **Senate Bill No. 1299**.

Senator Overbey declared Rule 13 on **Senate Bill No. 1299**.

Senator Finney declared Rule 13 on **Senate Bill No. 1299**.

Senator Kelsey declared Rule 13 on **Senate Bill No. 1299**.

On motion, Senate Bill No. 1299 was made to conform with **House Bill No. 1920**.

On motion, House Bill No. 1920, on same subject, was substituted for Senate Bill No. 1299.

Senator Beavers moved that Amendment No. 1 be placed behind Amendment No. 4, which motion prevailed.

Senator Southerland moved that Amendment No. 2 be placed behind Amendment No. 1, which motion prevailed.

On motion of Senator Campfield, Amendment No. 3 was withdrawn.

Senator Johnson moved to amend as follows:

AMENDMENT NO. 4

AMEND by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 35-5-104(a)(2), is amended by deleting the subdivision in its entirety and substituting instead the following as a new subsection (a)(2):

(2) Give a concise description of the land; such description shall include a legal description, which means a reference to the deed book and page that contains the complete legal description of the property, and common description, which means, if available, the street address and map and parcel number of the property. In the event no street address exists, a subdivision, lot or tract number may be used. A metes and bounds description may be, but is not required to be, included in the description of the land.

SECTION 2. Tennessee Code Annotated, Section 35-5-101, is amended by adding the following as a new subsection (f):

(f) Unless postponement or adjournment is contractually prohibited, any sale hereunder may be adjourned and rescheduled one (1) or more times without additional newspaper publication, upon compliance with the following provisions:

(1) The sale must be held within one (1) year of the originally scheduled date;

(2) Each postponement or adjournment must be to a specified date and time, and must be announced at the date, time and location of the originally scheduled sale date;

(3) If the postponement or adjournment is for more than thirty (30) days, notice of the new date, time, and location must be mailed at least five (5) days prior to the sale date via regular mail to the debtor and co-debtor; and

(4) Notice of the right to postpone or adjourn without additional newspaper publication shall not be required to be published in any newspaper publication.

SECTION 3. This act shall take effect on September 1, 2011, the public welfare requiring it, and shall only apply to deeds of trust or mortgages whose first date of publication occurs on or after such date.

Senator Johnson moved to amend as follows:

AMENDMENT NO. 1 TO AMENDMENT NO. 4

AMEND by deleting the language "the originally" in subdivision (f)(2) in Section 2 and substituting instead the language "each".

AND FURTHER AMEND by deleting the language "at least five (5) days" in subdivision (f)(3) in Section 2 and substituting instead the language "no less than ten (10) calendar days".

On motion, Amendment No. 1 to Amendment No. 4 was adopted.

Senator Johnson moved to amend as follows:

AMENDMENT NO. 2 TO AMENDMENT NO. 4

AMEND by deleting Section 3 in its entirety and substituting instead the following:

SECTION 3. This act shall take effect July 1, 2011, the public welfare requiring it.

On motion, Amendment No. 2 to Amendment No. 4 was adopted.

On motion, Amendment No. 4, as amended, was adopted.

On motion of Senator Beavers, Amendment No. 1 was withdrawn.

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On motion of Senator Southerland, Amendment No. 2 was withdrawn.

Thereupon, **House Bill No. 1920**, as amended, passed its third and final consideration by the following vote:

Ayes	32
Noes	1

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--32.

Senator voting no was: McNally--1.

A motion to reconsider was tabled.

Senate Bill No. 1400 -- Criminal Offenses -- As introduced, provides that offenses of wiretapping and electronic surveillance do not apply to person who installs software on a computer the person owns or is authorized to use when software is intended to monitor and record Internet use by member of person's household, including, but not limited to, person's child. Amends TCA Title 39, Chapter 13, Part 6.

On motion, Senate Bill No. 1400 was made to conform with **House Bill No. 1624**.

On motion, House Bill No. 1624, on same subject, was substituted for Senate Bill No. 1400.

Senator Beavers moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting the amendatory language of Section 1 in its entirety and substituting instead the following:

() Notwithstanding any provision of this part to the contrary, this section shall not apply to a person who installs software on a computer the person owns if such software is intended solely to monitor and record the use of the Internet by a minor child of whom such person is a parent or legal guardian.

On motion, Amendment No. 1 was adopted.

Thereupon, **House Bill No. 1624**, as amended, passed its third and final consideration by the following vote:

Ayes	29
Noes	0

Senators voting aye were: Beavers, Bell, Burks, Campfield, Crowe, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--29.

A motion to reconsider was tabled.

Senate Bill No. 1456 -- Criminal Procedure -- As introduced, permits the district attorney to apply for an order to wiretap if the interception may provide evidence of a criminal gang offense by a criminal gang member. Amends TCA Title 39 and Title 40.

On motion, Senate Bill No. 1456 was made to conform with **House Bill No. 1066**.

On motion, House Bill No. 1066, on same subject, was substituted for Senate Bill No. 1456.

Senator Beavers moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting Section 3 in its entirety and substituting instead the following:

SECTION 3. This act shall take effect July 1, 2011, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **House Bill No. 1066**, as amended, passed its third and final consideration by the following vote:

Ayes	32
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Yager and Mr. Speaker Ramsey--32.

A motion to reconsider was tabled.

Senate Bill No. 49 -- Education, Curriculum -- As introduced, prohibits the teaching of or furnishing of materials on human sexuality other than heterosexuality in public school grades K-8. Amends TCA Title 49, Chapter 6, Part 10.

Senator Gresham moved that Amendment No. 1 be placed behind Amendment No. 5, which motion prevailed.

Senator Tracy moved that Amendment No. 2 be placed behind Amendment No. 1, which motion prevailed.

Senator Campfield moved that Amendment No. 3 be placed behind Amendment No. 2, which motion prevailed.

Senator Campfield moved that Amendment No. 4 be placed behind Amendment No. 3, which motion prevailed.

Senator Roberts moved to amend as follows:

AMENDMENT NO. 5

AMEND by deleting in its entirety subdivision (2) of subsection (c) of Section 1 and by substituting instead the following:

(2) Notwithstanding any other law to the contrary, any instruction or materials made available or provided at or to a public elementary or middle school shall be limited exclusively to natural human reproduction science. The provisions of this subdivision shall also apply to a group or organization that provides instruction in natural human reproduction science in public elementary or middle schools.

On motion, Amendment No. 5 was adopted.

On motion of Senator Gresham, Amendment No. 1 was withdrawn.

On motion of Senator Tracy, Amendment No. 2 was withdrawn.

On motion of Senator Campfield, Amendment No. 3 was withdrawn.

On motion of Senator Campfield, Amendment No. 4 was withdrawn.

Thereupon, **Senate Bill No. 49**, as amended, passed its third and final consideration by the following vote:

Ayes	19
Noes	10

Senators voting aye were: Beavers, Bell, Burks, Campfield, Crowe, Gresham, Henry, Johnson, Kelsey, Ketron, McNally, Norris, Roberts, Southerland, Summerville, Tracy, Watson, Yager and Mr. Speaker Ramsey--19.

Senators voting no were: Barnes, Berke, Ford, Harper, Haynes, Herron, Kyle, Marrero, Stewart and Tate--10.

A motion to reconsider was tabled.

Senate Bill No. 2042 -- Probation and Parole -- As introduced, directs the board of probation and parole to study certain issues related to the use of old warrants and related process by local law enforcement and to report to the House and Senate Judiciary Committees on or before February 1, 2012. Amends TCA Title 5; Title 38; Title 39; Title 40 and Title 41.

On motion, Senate Bill No. 2042 was made to conform with **House Bill No. 840**.

On motion, House Bill No. 840, on same subject, was substituted for Senate Bill No. 2042.

On motion of Senator Beavers, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 840** passed its third and final consideration by the following vote:

Ayes	28
Noes	0

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Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Crowe, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--28.

A motion to reconsider was tabled.

Senate Bill No. 1284 -- Health Care -- As introduced, replaces "non-residential methadone treatment facility" with "non-residential substitution-based treatment centers offering treatment for opiate addiction". Amends TCA Title 68, Chapter 11.

On motion, Senate Bill No. 1284 was made to conform with **House Bill No. 1201**.

On motion, House Bill No. 1201, on same subject, was substituted for Senate Bill No. 1284.

On motion of Senator McNally, Amendment No. 1 was withdrawn.

On motion of Senator McNally, Amendment No. 2 was withdrawn.

Thereupon, **House Bill No. 1201** passed its third and final consideration by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Overbey, Roberts, Southerland, Stewart, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--30.

A motion to reconsider was tabled.

MR. SPEAKER RAMSEY RELINQUISHES CHAIR

Mr. Speaker Ramsey relinquished the Chair to Senator Woodson as Speaker pro tempore.

Senator Kelsey moved that **House Bill No. 334** be placed at the heel of Calendar No. 3 for today, which motion prevailed.

Senator Faulk moved that **Senate Bill No. 1521** be rereferred to the Committee on Calendar, which motion prevailed.

Senate Bill No. 1745 -- Employees, Employers -- As introduced, enacts certain provisions concerning labor practices including right to secret ballots. Amends TCA Title 50.

On motion, Senate Bill No. 1745 was made to conform with **House Bill No. 1747**.

On motion, House Bill No. 1747, on same subject, was substituted for Senate Bill No. 1745.

Senator Ketron moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 50, Chapter 1, is amended by adding the following new part thereto:

§ 50-1-701.

(a) All employees and employers in this state, when seeking to designate an exclusive bargaining representative through an election permitted by state or federal law, have the right to make such designation by secret ballot, when secret ballot is permitted by such law; under such circumstances, no alternative means of designation shall be used in this state as convincing evidence of employee majority support.

(b) Any agreement, understanding, or practice, written or oral, implied or expressed, between any labor organization and an employer that violates the rights of employees as guaranteed by this section shall be null and void.

(c) This section shall not apply to employee representation agreements:

(1) Entered into prior to July 1, 2011; or

(2) Involving both employees within and without of this state when the employer conducted business within this state prior to July 1, 2011.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect July 1, 2011, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Senator Ketron moved that **House Bill No. 1747**, as amended, be moved five places down on the Calendar for today, which motion prevailed.

Senator Yager moved that **House Bill No. 1120** be rereferred to the Committee on Calendar, which motion prevailed.

Senate Bill No. 42 -- Alcoholic Beverage Commission -- As introduced, requires all fees, fines, and other penalties be paid to commission before license renewal for distillers, wholesalers, retailers, liquor-by-the-drink establishments, wineries, collectors, and direct shippers; authorizes commission to assess actual and reasonable costs of any hearing held in accordance with the contested case provisions. Amends TCA Title 57, Chapter 3; Title 57, Chapter 4, Part 2 and Title 57, Chapter 1.

Senator Yager moved to amend as follows:

AMENDMENT NO. 1

AMEND by adding the following as a new section immediately preceding the effective date section and substituting instead the following:

SECTION ____ Tennessee Code Annotated, Title 57, Chapter 1, Part 2, is amended by adding the following as a new section thereto:

57-1-214. Notwithstanding any contrary law, the commission shall create a procedure to allow any person licensed by the commission to pay any outstanding fees, fines or other penalties assessed by the commission under protest in order to have such person's license renewed. Such procedure shall provide for refunding any money a licensee paid to the commission that is successfully contested by the licensee. The commission shall promulgate rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, to effectuate the procedure established by this section.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 42**, as amended, passed its third and final consideration by the following vote:

Ayes 26
Noes 1

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Crowe, Faulk, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Marrero, Overbey, Roberts, Southerland, Summerville, Tate, Tracy, Watson, Woodson and Yager--26.

Senator voting no was: Finney--1.

A motion to reconsider was tabled.

Senate Bill No. 650 -- Highway Signs -- As introduced, adds definition of "agreement" to "Billboard Regulation and Control Act". Amends TCA Title 29, Chapter 16, Part 1 and Title 54, Chapter 21.

On motion, Senate Bill No. 650 was made to conform with **House Bill No. 1210**.

On motion, House Bill No. 1210, on same subject, was substituted for Senate Bill No. 650.

On motion of Senator Tracy, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 1210** passed its third and final consideration by the following vote:

Ayes 28
Noes 0

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Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Marrero, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson and Yager--28.

A motion to reconsider was tabled.

Senator Tracy moved that **Senate Bill No. 672** be placed at the heel of Calendar No. 2 for today, which motion prevailed.

Senate Bill No. 771 -- Election Laws -- As introduced, revises the pilot project requirements for convenient voting centers in certain municipal elections. Amends TCA Title 2, Chapter 3.

On motion, Senate Bill No. 771 was made to conform with **House Bill No. 1268**.

On motion, House Bill No. 1268, on same subject, was substituted for Senate Bill No. 771.

Senator Yager moved that Amendment No. 1 be placed behind Amendment No. 2, which motion prevailed.

On motion of Senator Henry, Amendment No. 2 was withdrawn.

On motion of Senator Yager, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 1268** passed its third and final consideration by the following vote:

Ayes	23
Noes	7

Senators voting aye were: Beavers, Bell, Burks, Campfield, Crowe, Faulk, Gresham, Haynes, Johnson, Kelsey, Ketron, Kyle, Marrero, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson and Yager--23.

Senators voting no were: Barnes, Berke, Finney, Ford, Harper, Henry and Herron--7.

A motion to reconsider was tabled.

MOTION

Senator Yager moved that Rules 32, 33 and 37 be suspended for the introduction and immediate consideration of **Senate Joint Resolution No. 460**, out of order, which motion prevailed.

INTRODUCTION OF RESOLUTION

Senate Joint Resolution No. 460 by Senator Yager.
Memorials, Interns -- Rachel Bush.

On motion of Senator Yager, the rules were suspended for the immediate consideration of the resolution.

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On motion, **Senate Joint Resolution No. 460** was adopted.

A motion to reconsider was tabled.

NOTICE

MESSAGE FROM THE HOUSE

May 19, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 113. The House refused to recede from its action in adopting House Amendments Nos. 1, 9 and 13.

JOE MCCORD,
Chief Clerk.

RECESS

Senator Norris moved the Senate stand in recess until 1:30 p.m., which motion prevailed.

CALL TO ORDER

The Senate was called to order by Mr. Speaker Ramsey.

ROLL CALL

The Speaker declared that a quorum was present.

On motion, the roll call was dispensed with.

NOTICES

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 530. The House nonconcurrred in Senate Amendment No. 2.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 249. The House nonconcurrred in Senate Amendment No. 2.

JOE MCCORD,
Chief Clerk.

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MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 1698. The House nonconcurred in Senate Amendment No. 1.

JOE MCCORD,
Chief Clerk.

MOTION

Senator Faulk moved that Rule 19 be suspended for the purpose of considering Message Calendar No. 1 next, which motion prevailed.

MESSAGE CALENDAR NO. 1

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 113 -- Teachers, Principals and School Personnel -- As introduced, abolishes teachers' unions ability to negotiate terms and conditions of professional service with local boards of education. Amends TCA Section 5-23-107 and Title 49.

Senator Johnson moved that the Senate refuse to recede from its action in nonconcurring in House Amendment No. 1 to **Senate Bill No. 113**, which motion prevailed.

Senator Johnson moved that the Senate refuse to recede from its action in nonconcurring in House Amendment No. 9 to **Senate Bill No. 113**, which motion prevailed.

Senator Johnson moved that the Senate refuse to recede from its action in nonconcurring in House Amendment No. 13 to **Senate Bill No. 113**, which motion prevailed.

Senator Johnson moved that the Speaker appoint a Conference Committee to meet with a like committee from the House to resolve the differences between the two Bodies on **Senate Bill No. 113**, which motion prevailed.

**APPOINTMENT OF SELECT COMMITTEE
CONFERENCE COMMITTEE
ON
SENATE BILL NO. 113**

The Speaker announced the appointment of a Conference Committee composed of Senators Johnson, Chairperson; Gresham and Berke to confer with a like committee from the House to resolve the differences of the two Bodies on Senate Bill No. 113.

Senator Ketron moved that **Senate Bill No. 16** be placed at the heel of Message Calendar No. 1 for today, which motion prevailed.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 249 -- Sunset Laws -- As introduced, extends termination date for the department of education to June 30, 2011. Amends TCA Title 4, Chapter 29, Part 2 and Title 4, Chapter 3, Part 8.

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Senator Watson moved to lift from the table a motion to reconsider on **House Bill No. 249**, which motion prevailed.

Senator Watson moved that the Senate reconsider its action in passing **House Bill No. 249**, which motion prevailed.

Senator Watson moved that the Senate reconsider its action in adopting Senate Amendment No. 2 to **House Bill No. 249**, which motion prevailed.

Senator Watson moved that Senate Amendment No. 2 to **House Bill No. 249** be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 249** was repassed on third and final consideration by the following vote:

Ayes	29
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Faulk, Finney, Ford, Gresham, Harper, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson and Yager--29.

A motion to reconsider was tabled.

Mr. Speaker Ramsey moved that **House Bill No. 530** be placed at the heel of Message Calendar No. 1 for today, which motion prevailed.

Mr. Speaker Ramsey moved that **House Bill No. 1698** be placed at the heel of Message Calendar No. 1 for today, which motion prevailed.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 16 -- Election Laws -- As introduced, requires a voter to present qualified photographic identification before voting; voters without proper identification shall be allowed to cast provisional ballots. Amends TCA Title 2, Chapter 7, Part 1.

HOUSE AMENDMENT NO. 1

AMEND by deleting Section 1 of the printed bill, by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 2-7-112(a)(1), is amended by adding the following language after the first sentence of the subdivision:

In addition, the voter shall present to the precinct registrar one (1) form of identification that bears the name and photograph of the voter. The requirement to present one (1) form of identification that bears the name and photograph of the voter shall apply to persons voting pursuant to § 2-6-109, provided, however, a person voting in accordance with § 2-6-401(a) and (b) or § 2-6-601 shall not be required to show an identification with a photograph of the voter.

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Senator Ketron moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 16**, which motion prevailed by the following vote:

Ayes 21
Noes 10

Senators voting aye were: Beavers, Bell, Campfield, Faulk, Gresham, Henry, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--21.

Senators voting no were: Barnes, Berke, Burks, Finney, Ford, Harper, Herron, Kyle, Marrero and Stewart--10.

A motion to reconsider was tabled.

HOUSE AMENDMENT NO. 2

AMEND by deleting subsection (c)(2) from Section 7 and by substituting instead the following language:

(2)(A) Except as provided in subdivision (B), a valid identification card issued by a branch, department, agency or entity of the State of Tennessee, any other state, or the United States authorized by law to issue personal identification, provided that such identification card contains a photograph of the voter;

(B) An identification card issued to a student by an institution of higher education containing a photograph of a student shall not be evidence of identification for purposes of verifying the person's identification on the application for ballot;

Senator Ketron moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 16**, which motion prevailed by the following vote:

Ayes 18
Noes 14

Senators voting aye were: Beavers, Bell, Campfield, Crowe, Gresham, Johnson, Kelsey, Ketron, McNally, Norris, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--18.

Senators voting no were: Barnes, Berke, Burks, Faulk, Finney, Ford, Harper, Henry, Herron, Kyle, Marrero, Overbey, Stewart and Tate--14.

A motion to reconsider was tabled.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 530 -- County Officers -- As introduced, increases qualification for office of constable to include possessing high school diploma or GED rather than present requirement of ability to read and write. Amends TCA Title 8, Chapter 10, Part 1.

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Senator Crowe moved that the Senate refuse to recede from its action in adopting Senate Amendment No. 2 to **House Bill No. 530**, which motion prevailed.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 1698 -- Child Custody and Support -- As introduced, revises conditions under which grandparent visitation can be awarded. Amends TCA Title 36, Chapter 6, Part 3.

Senator Crowe moved that the Senate refuse to recede from its action in adopting Senate Amendment No. 1 to **House Bill No. 1698**, which motion prevailed.

CALENDAR NO. 1

FURTHER ACTION ON HOUSE BILL NO. 1747, AS AMENDED

Senator Ketron moved that **House Bill No. 1747**, as amended, be moved two places down on Calendar No. 1 for today, which motion prevailed.

Senate Bill No. 772 -- Election Laws -- As introduced, revises various election law procedures concerning registration notification forms, times for appointment of election officials, lessening early voting period by two days, inclusion of voter's date of birth on application to vote absentee, and establishing a mechanism for non-resident property owners to vote absentee by mail. Amends TCA Section 2-12-111(a); Section 2-2-107(a); Section 2-2-115(b); Section 2-4-102(a); Section 2-5-211(b); Section 2-6-102(a)(1); Section 2-6-102(b); Title 2, Chapter 6, Part 2 and Section 2-6-202(a)(3).

Senator Yager moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting Section 5 of the bill and redesignating remaining sections accordingly.

On motion, Amendment No. 1 was adopted.

Senator Yager moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting Section 6 of the bill and redesignating remaining sections accordingly.

On motion, Amendment No. 2 was adopted.

Senator McNally moved to amend as follows:

AMENDMENT NO. 3

AMEND by deleting Section 4 of the printed bill in its entirety and by renumbering all remaining sections accordingly.

On motion, Amendment No. 3 was adopted.

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Thereupon, **Senate Bill No. 772**, as amended, passed its third and final consideration by the following vote:

Ayes 23
Noes 3

Senators voting aye were: Beavers, Bell, Burks, Campfield, Crowe, Faulk, Finney, Gresham, Henry, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--23.

Senators voting no were: Barnes, Harper and Marrero--3.

A motion to reconsider was tabled.

Senate Bill No. 837 -- Bail, Bail Bonds -- As introduced, requires bounty hunters to undergo a criminal background check. Amends TCA Section 40-11-318.

On motion, Senate Bill No. 837 was made to conform with **House Bill No. 1305**.

On motion, House Bill No. 1305, on same subject, was substituted for Senate Bill No. 837.

On motion of Senator Beavers, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 1305** passed its third and final consideration by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Barnes, Beavers, Bell, Burks, Campfield, Crowe, Faulk, Finney, Gresham, Harper, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--30.

A motion to reconsider was tabled.

FURTHER ACTION ON HOUSE BILL NO. 1747, AS AMENDED

Thereupon, **House Bill No. 1747**, as amended, passed its third and final consideration by the following vote:

Ayes 23
Noes 6

Senators voting aye were: Beavers, Bell, Burks, Campfield, Crowe, Faulk, Gresham, Henry, Herron, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--23.

Senators voting no were: Barnes, Ford, Harper, Kyle, Marrero and Stewart--6.

A motion to reconsider was tabled.

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Senate Bill No. 1109 -- Hospitals and Healthcare Facilities -- As introduced, extends the current moratorium on the issuance of Certificates of Need (CONs) for new nursing home beds until June 30, 2013. Amends TCA Title 68, Chapter 11, Part 16.

On motion, Senate Bill No. 1109 was made to conform with **House Bill No. 493**.

On motion, House Bill No. 493, on same subject, was substituted for Senate Bill No. 1109.

House Bill No. 493 passed its third and final consideration by the following vote:

Ayes	28
Noes	1

Senators voting aye were: Barnes, Beavers, Burks, Crowe, Faulk, Ford, Gresham, Harper, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--28.

Senator voting no was: Campfield--1.

A motion to reconsider was tabled.

Senate Bill No. 1110 -- Hospitals and Healthcare Facilities -- As introduced, extends for two years the nursing home privilege tax and restricts the use of such tax revenues to the funding of nursing home rates. Amends TCA Title 68, Chapter 11, Part 2.

On motion, Senate Bill No. 1110 was made to conform with **House Bill No. 492**.

On motion, House Bill No. 492, on same subject, was substituted for Senate Bill No. 1110.

On motion of Senator Crowe, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 492** passed its third and final consideration by the following vote:

Ayes	27
Noes	1

Senators voting aye were: Barnes, Bell, Burks, Crowe, Faulk, Ford, Gresham, Harper, Henry, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--27.

Senator voting no was: Campfield--1.

A motion to reconsider was tabled.

Senate Bill No. 1152 -- Public Funds and Financing -- As introduced, revises provisions under the "Local Government Public Obligations Act of 1986" regarding invalid obligations. Amends TCA Title 9, Chapter 21.

On motion, Senate Bill No. 1152 was made to conform with **House Bill No. 1478**.

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On motion, House Bill No. 1478, on same subject, was substituted for Senate Bill No. 1152.

On motion of Senator Yager, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 1478** passed its third and final consideration by the following vote:

Ayes	29
Noes	0

Senators voting aye were: Barnes, Bell, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Henry, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--29.

A motion to reconsider was tabled.

Senate Bill No. 1224 -- Alcoholic Beverages -- As introduced, decreases from two to one the number of years that an individual, shareholder, or transferee must reside in Tennessee following an application for a retail liquor store license; decreases from 10 to five the number of years that an individual, shareholder or transferee must have resided in Tennessee to receive a retail liquor store license. Amends TCA Title 57.

On motion, Senate Bill No. 1224 was made to conform with **House Bill No. 986**.

On motion, House Bill No. 986, on same subject, was substituted for Senate Bill No. 1224.

On motion of Senator Yager, Amendment No. 1 was withdrawn.

Senator Yager moved that Amendment No. 2 be placed behind Amendment No. 3, which motion prevailed.

Senator McNally moved to amend as follows:

AMENDMENT NO. 3

AMEND by deleting Section 7, as amended, and adding the following language:

SECTION 7. Tennessee Code Annotated, Section 57-3-101(a)(1)(A), is amended by inserting the language "high alcohol content beer," after the language "wine", where such word appears in the first sentence of that subdivision.

SECTION 8. Tennessee Code Annotated, Section 57-3-101(a)(10), is amended by inserting the language "brewing high alcohol content beer," between the language "includes" and the language "distilling".

SECTION 9. Tennessee Code Annotated, Section 57-3-101(a)(11), is amended by inserting the language "brewer of high alcohol content beer," between the language "includes a" and the words "distiller".

SECTION 10. Tennessee Code Annotated, Section 57-3-101(a), is amended by adding the following language as a new, appropriately designated subdivision:

() "High alcohol content beer" means an alcoholic beverage which is beer, ale or other malt beverage having an alcoholic content of more than five percent (5%) by weight and not more than twenty percent (20%) by weight, except wine as defined in § 57-3-101, that is brewed, regulated, distributed or sold pursuant to Title 57, Chapter 3; provided that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol.

SECTION 11. Tennessee Code Annotated, Section 57-3-101(a), is amended by deleting the word "chapter" and by substituting instead the word "title".

SECTION 12. Tennessee Code Annotated, Section 57-2-103, is amended by adding the following language as a new subsection:

(f)(1)(A) Notwithstanding (a) – (c), it shall be lawful to manufacture high alcohol content beer as defined in § 57-3-101(a) within the boundaries of a municipality if both retail package sales and consumption of alcoholic beverages on the premises have been approved through voter referendum of voters within such municipality and in the unincorporated areas of any county if both retail package sales and consumption of alcoholic beverages on the premises have been approved through voter referendum of voters in any jurisdiction located within the county, or if the county is included in the Tennessee River resort district as defined in § 57-4-102 and retail package sales have been approved through voter referendum within the county, and if the manufacturer also holds a Brewer's Notice approved by the U.S. Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, or any successor federal beer manufacturing permit granted by a federal bureau having jurisdiction over the manufacture of beer.

(B) In all jurisdictions not meeting the requirements of subdivision (f)(1)(A), it shall be lawful to manufacture high alcohol content beer as defined in § 57-3-101(a) within the boundaries of a municipality or in the unincorporated area of such county upon such jurisdiction meeting the requirements of (a) – (c), and if the manufacturer also holds a Brewer's Notice approved by the U.S. Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, or any successor federal beer manufacturing permit granted by a federal bureau having jurisdiction over the manufacture of beer.

(2) Notwithstanding any other provision of law to the contrary, it shall be lawful for any manufacturer of high alcohol content beer authorized to manufacture such beverages pursuant to subdivision (f)(1) to also brew beer as this term is defined in § 57-5-101(b) on the same premises of the manufacturer of high alcohol content beer, upon meeting necessary federal, state and local license requirements.

(3) The general assembly hereby ratifies any action which may have been taken by the alcoholic beverage commission in issuing a license to a manufacturer of high alcohol content beer prior to the effective date of this act.

SECTION 13. Tennessee Code Annotated, Section 57-3-204(f), is amended by adding the following language as a new subdivision as follows:

(7) If the retail license under this subsection (f) is held by a manufacturer of high alcohol content beer authorized to manufacture such beverages, then:

(A) Notwithstanding any other provision of law, the retailer may sell its products at such retail location which are manufactured on the manufacturer's premises in accordance with subdivisions (B) and (C) in sizes and containers that are made available through the general wholesale/retail distribution system; provided that, the provisions of subsection (g) related to the delivery of alcoholic beverages by wholesalers shall be applicable;

(B)(1) Such retailer may also offer and sell beer, as beer is defined in § 57-5-101(b), for consumption on or off-premises, at the same physical location at which it offers samples of and sells its high alcohol content beer; provided such beer and high alcohol content beer is brewed on the manufacturer's premises located at the retail location, and further provided that such manufacturer may distribute such beer as defined in § 57-5-101(b) only to wholesalers licensed pursuant to Title 57, Chapter 5. A wholesaler of such products may permit a manufacturer to deliver its products to the retail premises operated by such manufacturer directly; provided, that the wholesaler permitting such direct shipment must include the amounts delivered in its inventory and depletions for purposes of tax collections.

(2) Notwithstanding any other provision of law to the contrary, the hours and days on which such beer or high alcohol content beer may be sold at retail by a manufacturer authorized to manufacture such beverages pursuant to § 57-2-103(f) shall be as set by the governing body of the local jurisdiction in which the manufacturer is located, and such governing body shall further have the authority to authorize the sale of high alcohol content beer and beer within the same store notwithstanding § 57-3-404(e)(1).

(C) Such retailer may sell no more than five (5) gallons or one-sixth (1/6) of a barrel of beer or high alcohol content beer or any combination of such beverages to any one (1) individual per visit to the premises.

SECTION 14. Tennessee Code Annotated, Section 57-4-201, is amended by adding the following language as a new, appropriately designated subsection:

() (1) Notwithstanding any provision of this title to the contrary, an entity holding a license to manufacture high alcohol content beer issued by the commission shall be authorized to also obtain a license as a restaurant or a limited service restaurant located on the premises of the manufacturer. The premises of any restaurant or limited service restaurant licensed under this subsection shall mean any or all of the property on which the restaurant is located, including exterior areas. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing.

(2) Notwithstanding any provision of law to the contrary, any manufacturer to whom a restaurant or limited service restaurant license is issued pursuant to subdivision (1), shall also be authorized to sell beer as this

term is defined in § 57-5-101(b) at such restaurant or limited service restaurant upon meeting necessary federal, state and local license requirements.

SECTION 15. Tennessee Code Annotated, Section 57-3-204(f), is amended by deleting subdivision (4) in its entirety and by substituting instead the following language:

(4) A manufacturer licensed to sell at retail at its retail location under this subsection (f) may sell only such products as are manufactured on the manufacturer's premises; provided that at such retail location no more than five (5) gallons or one-sixth (1/6) of a barrel of its products may be sold to any one (1) individual per visit to the premises.

SECTION 16. Tennessee Code Annotated, Section 57-3-204(g), is amended by deleting the language "a special decanter or commemorative bottle" or "such special decanter or commemorative bottle" wherever such language appears in subdivision (1) and (2) and by substituting instead the language "its products".

SECTION 17. Tennessee Code Annotated, Section 57-3-501(a), is amended by designating the existing language as subdivision (1) and by adding the following language to be designated as subdivision (2):

(2) If, pursuant to § 57-3-204(f)(7), a manufacturer of high alcohol content beer obtains a retail license to sell its products which are manufactured on the manufacturer's premise, the governing body of the municipality or county in which such a manufacturer is located shall impose by ordinance or resolution, as appropriate, a fifteen percent (15%) inspection fee to inspect the retail store in which such products are sold by the manufacturer. Such inspection fee shall be imposed on the wholesale price of the high alcohol content beer supplied pursuant to § 57-3-204(f)(7)(B) by a wholesaler for those products manufactured and sold by the manufacturer at its retail store as authorized pursuant to § 57-3-204(f)(7).

SECTION 18. Tennessee Code Annotated, Title 57, Chapter 3, Part 3, is amended by adding the following language as a new, appropriately designated section:

57-3-3___. The taxes imposed on high alcohol content beer shall be as provided in § 57-3-303(l) or § 57-3-302(a), whichever is applicable.

SECTION 19. Tennessee Code Annotated, Section 57-3-404(h), is amended by designating the existing language as subdivision (1) and by adding the following language to be designated as subdivision (2):

(2) A retail licensee may offer complimentary samples of the products it sells for tastings to be held on the premises of the retail licensee. Such tastings shall be for sales, education and promotional purposes. No person holding a license under § 57-3-203 shall, directly or indirectly, provide any products, funding, labor, support or reimbursement to a retailer for the consumer tastings authorized by this subdivision (2).

SECTION 20. This act shall take effect upon becoming a law, the public welfare requiring it.

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On motion, Amendment No. 3 was adopted.

On motion of Senator Yager, Amendment No. 2 was withdrawn.

Thereupon, **House Bill No. 986**, as amended, passed its third and final consideration by the following vote:

Ayes	27
Noes	4

Senators voting aye were: Barnes, Berke, Burks, Crowe, Faulk, Finney, Ford, Gresham, Harper, Henry, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--27.

Senators voting no were: Beavers, Bell, Campfield and Southerland--4.

A motion to reconsider was tabled.

Senator Yager moved that **Senate Bill No. 1243** be rereferred to the Committee on Calendar, which motion prevailed.

Senate Bill No. 1273 -- Alcoholic Beverages -- As introduced, authorizes alcoholic beverages for consumption on the premises in unincorporated areas of a county if the county conducts an election and limits the election, as provided by law, to those persons residing in areas outside larger municipalities which by law are authorized to conduct their own elections for such purposes. Amends TCA Title 57, Chapter 4, Part 1.

On motion, Senate Bill No. 1273 was made to conform with **House Bill No. 985**.

On motion, House Bill No. 985, on same subject, was substituted for Senate Bill No. 1273.

On motion of Senator Yager, Amendment No. 1 was withdrawn.

Senator Yager moved to amend as follows:

AMENDMENT NO. 2

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION ____ Tennessee Code Annotated, Section 57-4-102(35), is amended by deleting the language "motel or restaurant" and substituting instead the language "motel, restaurant or limited service restaurant".

On motion, Amendment No. 2 was adopted.

Senator McNally moved to amend as follows:

AMENDMENT NO. 3

AMEND by deleting the language "unincorporated area of a county" and substituting instead the language "unincorporated portion of a county" in the amendatory language of the first Section of Senate State & Local Government Committee Amendment No. 1 (# 005911).

On motion, Amendment No. 3 was adopted.

Thereupon, **House Bill No. 985**, as amended, passed its third and final consideration by the following vote:

Ayes	22
Noes	6

Senators voting aye were: Barnes, Berke, Crowe, Finney, Ford, Gresham, Harper, Henry, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Stewart, Summerville, Tate, Watson, Woodson, Yager and Mr. Speaker Ramsey--22.

Senators voting no were: Beavers, Bell, Burks, Campfield, Roberts and Southerland--6.

A motion to reconsider was tabled.

Senator Summerville moved that **Senate Bill No. 1348** be moved two places down on Calendar No. 1 for today, which motion prevailed.

Mr. Speaker Ramsey moved that **Senate Bill No. 1449** be moved two places down on Calendar No. 1 for today, which motion prevailed.

Senate Bill No. 1529 -- Tennessee Higher Education Commission -- As introduced, requires THEC to report annually to appropriate committees of the general assembly on the extent to which lottery funded scholarship and grant programs promote the goals of the "Complete College Tennessee Act of 2010". Amends TCA Title 49, Chapter 4.

On motion, Senate Bill No. 1529 was made to conform with **House Bill No. 2010**.

On motion, House Bill No. 2010, on same subject, was substituted for Senate Bill No. 1529.

On motion of Senator Gresham, Amendment No. 1 was withdrawn.

On motion of Senator McNally, Amendment No. 2 was withdrawn.

On motion of Senator Stewart, Amendment No. 3 was withdrawn.

Thereupon, **House Bill No. 2010** passed its third and final consideration by the following vote:

Ayes	28
Noes	1
Present, not voting . . .	1

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Senators voting aye were: Barnes, Beavers, Bell, Burks, Campfield, Crowe, Faulk, Finney, Gresham, Harper, Henry, Herron, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--28.

Senator voting no was: Marrero--1.

Senator present and not voting was: Berke--1.

A motion to reconsider was tabled.

Senate Bill No. 1348 -- Municipal Government -- As introduced, requires any municipality that maintains a municipal Web site and provides funding for the financial aid of a nonprofit charitable organization or civic organization to create and maintain a Web page that provides information to the public concerning such appropriations. Amends TCA Title 6, Chapter 54.

Senator Yager moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 6-54-118, is amended by redesignating the current subsection (b) as subsection (c) and by inserting the following language as a new subsection (b):

(b) Without limiting the authorization provided under any otherwise applicable law, on or before 11:59 p.m., January 1, 2012, a municipality located in a Tier 3 enhancement county as defined in Section 67-4-2109(a)(2) as of the effective date of this act, acting through the authorization of the board of public utilities or other board or supervisory body having responsibility for the electric department or gas department of the municipality, may loan funds from the electric department or gas department to an eligible industrial development corporation for the purpose of economic development or industrial development, or both; provided that:

(1) Prior to making any loan pursuant to this subsection, the municipality shall submit the loan agreement to the comptroller of the treasury, or the comptroller's designee, for approval based upon a review of the financial condition of the electric or gas department, the department's available reserves, the collateral provided to the department, and the terms and conditions of the loan documents; and

(2) The principal amount of any loan made pursuant to this subsection shall not exceed five hundred thousand dollars (\$500,000).

SECTION 2. Tennessee Code Annotated, Section 6-54-118(a), is amended by deleting the language "as defined in subsection (b)" and by substituting instead the language "as defined in subsection (c)".

SECTION 3. This act shall take effect upon becoming law, the public welfare requiring it.

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On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 1348**, as amended, passed its third and final consideration by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

Senate Bill No. 1707 -- Education -- As introduced, requires local boards of education to allocate funding to licensed residential treatment centers where students have been admitted in an amount equal to the per student state and local funds received by the LEA. Amends TCA Title 33; Title 37; Title 41 and Title 49.

Senator Gresham moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 3, Part 3, is amended by adding the following as a new, appropriately designated section:

49-3-3__.

(a) A local board of education shall allocate funding in an amount equal to the per pupil state and local funds received by the LEA to state licensed residential mental health facilities on a prorated daily basis for the student's length of stay, provided all of the following criteria have been met:

(i) The residential mental health facility operates as a Category I special purpose school pursuant to State Board of Education rules and regulations;

(ii) The student admitted to the residential mental health facility is enrolled in the LEA; and

(iii) The student is admitted to the residential mental health facility under a licensed physician's written order and such order is based on medical necessity.

(b) The funding specified in subsection (a) shall be in addition to funds allocated pursuant to federal law and regulation, including, but not limited to, Title I and ESEA funds.

(c) The State Board of Education shall promulgate rules and regulations that provide for the determination of the allocation of funding as provided in this section. All such rules and regulations shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 2. This act shall take effect July 1, 2011, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 1707**, as amended, passed its third and final consideration by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Faulk, Finney, Ford, Gresham, Harper, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

Senate Bill No. 1449 -- Revenue, Dept. of -- As introduced, authorizes the issuance of revenue or letter rulings on an expedited basis; allows the commissioner to determine a reasonable fee for such service. Amends TCA Title 67, Chapter 1, Part 1.

On motion, Senate Bill No. 1449 was made to conform with **House Bill No. 1008**.

On motion, House Bill No. 1008, on same subject, was substituted for Senate Bill No. 1449.

On motion of Senator McNally, Amendment No. 1 was withdrawn.

Senator McNally moved that the Senate reconsider its action in withdrawing Senate Amendment No. 1 to **House Bill No. 1008**, which motion prevailed.

Senator McNally moved to amend as follows:

AMENDMENT NO. 1

AMEND by inserting the words "set and" between the language "may be" and "prescribed" in the amendatory language of subdivision (9) in Section 1 of the printed bill.

AND FURTHER AMEND by inserting the words "set and" between the language "may be" and "prescribed" in the amendatory language of subsection (f) in Section 2 of the printed bill.

On motion, Amendment No. 1 was adopted.

Thereupon, **House Bill No. 1008**, as amended, passed its third and final consideration by the following vote:

Ayes 26
Noes 0
Present, not voting . . . 1

Senators voting aye were: Barnes, Bell, Burks, Faulk, Finney, Ford, Gresham, Harper, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Summerville, Tate, Watson, Woodson, Yager and Mr. Speaker Ramsey--26.

Senator present and not voting was: Roberts--1.

A motion to reconsider was tabled.

Senator Johnson moved that **Senate Bill No. 1740** be placed at the heel of Calendar No. 2 for today, which motion prevailed.

Senate Bill No. 1748 -- Alcoholic Beverages -- As introduced, adds certain facility to the definition of premier type tourist resort for purposes of the sale of alcoholic beverages for on-premises consumption. Amends TCA Section 57-4-102.

On motion, Senate Bill No. 1748 was made to conform with **House Bill No. 1748**.

On motion, House Bill No. 1748, on same subject, was substituted for Senate Bill No. 1748.

On motion of Senator Yager, Amendment No. 1 was withdrawn.

Senator McNally moved to amend as follows:

AMENDMENT NO. 2

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION __. Tennessee Code Annotated, Section 57-4-102(26), is further amended by adding the following language as a new, appropriately designated subdivision:

() A privately-owned resort and recreational facility possessing each of the following characteristics:

(i) Has a dock with marina which has at least one-hundred and seventy (170) boat slips which is located on or near the four hundred eighty-two (482) mile marker on the Tennessee River;

(ii) Has an outside gazebo which is used for various functions;

(iii) Has a restaurant with a dining room of at least forty-two hundred (4,200) square feet, which seats at least two hundred (200) persons both indoors and outdoors, including an outdoor balcony; and which serves meals at least four (4) days on a weekly basis including Sunday brunch, with exceptions of closures for private groups or events; and seasonal closures, vacations, general maintenance and remodeling by the owners;

(iv) When used in this subdivision, the "facility" shall include any location within the property designated by the licensee; and

(v) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

On motion, Amendment No. 2 was adopted.

Senator Ketron moved to amend as follows:

AMENDMENT NO. 3

AMEND by adding the following new sections to precede the effective date section:

SECTION ____ Tennessee Code Annotated, Section 57-4-102(26), is amended by deleting subdivision (VV) in its entirety.

SECTION ____ Any license issued pursuant to § 57-4-102(26)(VV) in effect upon the effective date of this act shall not be renewed by the commission upon the expiration of such license.

On motion, Amendment No. 3 was adopted.

Senator Ketron moved that **House Bill No. 1748**, as amended, be moved two places down on Calendar No. 1 for today, which motion prevailed.

Senate Bill No. 1915 -- Campaigns and Campaign Finance -- As introduced, increases contribution limits to reflect change in the CPI; allows corporations to contribute to candidates; allows members of the general assembly and the governor to fundraise as candidates for other elective offices during session with certain restrictions. Amends TCA Title 2, Chapter 10.

Senator Yager moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting Sections 7, 8 and 9 in their entireties and by substituting instead the following:

SECTION 7. Tennessee Code Annotated, Section 2-10-310(b), is amended by deleting the language "or by a caucus of such political party established by members of either house of the general assembly", and by substituting instead the following:

or controlled by a caucus of such political party established by members of either house of the general assembly, or established or controlled by any member of the general assembly,

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

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Thereupon, **Senate Bill No. 1915**, as amended, passed its third and final consideration by the following vote:

Ayes	19
Noes	11
Present, not voting . . .	1

Senators voting aye were: Beavers, Bell, Campfield, Crowe, Faulk, Gresham, Johnson, Kelsey, Ketron, McNally, Norris, Southerland, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--19.

Senators voting no were: Barnes, Berke, Burks, Finney, Harper, Henry, Herron, Kyle, Marrero, Overbey and Stewart--11.

Senator present and not voting was: Ford--1.

A motion to reconsider was tabled.

Senate Joint Resolution No. 119 -- Constitutional Amendments -- As introduced, memorializes Congress to propose an amendment to the United States Constitution that would authorize states to rescind certain federal laws.

Senate Joint Resolution No. 119 was adopted by the following vote:

Ayes	22
Noes	8

Senators voting aye were: Beavers, Bell, Campfield, Crowe, Faulk, Ford, Gresham, Henry, Herron, Johnson, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--22.

Senators voting no were: Berke, Burks, Finney, Harper, Kelsey, Marrero, Stewart and Tate --8.

A motion to reconsider was tabled.

FURTHER ACTION ON HOUSE BILL NO. 1748, AS AMENDED

Senator Ketron moved that the Senate reconsider its action in adopting Senate Amendment No. 3 to **House Bill No. 1748**, as amended, which motion prevailed.

On motion of Senator Ketron, Amendment No. 3 was withdrawn.

Thereupon, **House Bill No. 1748**, as amended, passed its third and final consideration by the following vote:

Ayes	18
Noes	6
Present, not voting . . .	1

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Senators voting aye were: Barnes, Berke, Crowe, Finney, Ford, Gresham, Harper, Henry, Johnson, Kelsey, Ketron, Marrero, McNally, Overbey, Stewart, Summerville, Woodson and Mr. Speaker Ramsey--18.

Senators voting no were: Beavers, Bell, Burks, Campfield, Herron and Southerland--6.

Senator present and not voting was: Faulk--1.

A motion to reconsider was tabled.

Senate Resolution No. 26 -- General Assembly, Statement of Intent or Position -- Expresses sense of the Senate relative to federal funding for the user program at Holifield Radioactive Ion Facility at the Oak Ridge National Laboratory.

SENATE RESOLUTION NO. 26
By Senator Yager

A RESOLUTION relative to federal funding for the user program at the Holifield Radioactive Ion Beam Facility.

WHEREAS, the user program at the Oak Ridge National Laboratory's Holifield Radioactive Ion Beam Facility fulfills an important role in the scientific community, utilizing the facility's unique capabilities to bridge the gap to the Facility for Rare Isotope Beams and to train numerous current and future nuclear scientists; and

WHEREAS, current federal budgetary constraints will eliminate the federal funding provided to the user program, funding which is imperative to the operation of this singular program; and

WHEREAS, the loss of federal funding for the user program at the Holifield Radioactive Ion Beam Facility would destroy a useful, scientifically-relevant nuclear program; now, therefore,

BE IT RESOLVED BY THE SENATE OF THE ONE HUNDRED SEVENTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, that it is the sense of this body that the President and U.S. Congress should refrain from eliminating the funding which enables the existence of the user program at the Holifield Radioactive Ion Beam Facility at the Oak Ridge National Laboratory and we urge the President and U.S. Congress to include funding for such program in the final budget for FY 2012.

BE IT FURTHER RESOLVED, that this resolution be spread upon the Senate Journal and that certified copies be transmitted to each member of Tennessee's Congressional delegation.

Senate Resolution No. 26 was adopted by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Crowe, Faulk, Finney, Ford, Gresham, Harper, Henry, Herron, Johnson, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--30.

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A motion to reconsider was tabled.

Senate Bill No. 2107 -- Sparta -- As introduced, subject to local approval, revises the charter. Amends Chapter 99 of the Private Acts of 1973.

On motion, Senate Bill No. 2107 was made to conform with **House Bill No. 2149**.

On motion, House Bill No. 2149, on same subject, was substituted for Senate Bill No. 2107.

On motion of Senator Burks, Amendment No. 1 was withdrawn.

On motion of Senator Burks, Amendment No. 2 was withdrawn.

Thereupon, **House Bill No. 2149** passed its third and final consideration by the following vote:

Ayes	32
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--32.

A motion to reconsider was tabled.

House Bill No. 966 -- Insurance Companies, Agents, Brokers, Policies -- As introduced, enacts the "Surplus Lines Insurance Act" and the Surplus Lines Insurance Multi-State Compliance Compact. Amends TCA Title 56, Chapter 14.

Senator Ford declared Rule 13 on **House Bill No. 966**.

Senator Tracy declared Rule 13 on **House Bill No. 966**.

Senator Ketron declared Rule 13 on **House Bill No. 966**.

On motion of Senator Johnson, Amendment No. 1 was withdrawn.

Senator Johnson moved that Amendment No. 2 be placed behind Amendment No. 3, which motion prevailed.

On motion of Senator McNally, Amendment No. 3 was withdrawn.

On motion of Senator Johnson, Amendment No. 2 was withdrawn.

Senator Ketron moved to amend as follows:

AMENDMENT NO. 4

AMEND by deleting the language "in to" in the second sentence in subdivision (c)(iv), § 1, Article VI in Section 2 and substituting instead the language "*in toto*".

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AND FURTHER AMEND by deleting the language "The commission shall annually elect officers" in subsection (c), § 2, Article VI in Section 2 and substituting instead the language "The executive committee shall annually elect a chairperson".

AND FURTHER AMEND by adding the following new subsection (e) to § 2, Article VI in Section 2:

(e) All representatives of the executive committee shall be individuals who have extensive experience and / or employment in the surplus lines insurance business including, but not limited to, executives and attorneys employed by surplus lines insurers, surplus lines licensees, law firms, state insurance departments and / or state stamping offices.

On motion, Amendment No. 4 was adopted.

Thereupon, **House Bill No. 966**, as amended, passed its third and final consideration by the following vote:

Ayes	26
Noes	2
Present, not voting . . .	1

Senators voting aye were: Barnes, Beavers, Berke, Burks, Crowe, Faulk, Finney, Ford, Gresham, Harper, Henry, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--26.

Senators voting no were: Herron and Kyle--2.

Senator present and not voting was: Campfield--1.

A motion to reconsider was tabled.

Senate Bill No. 1215 -- Municipal Government -- As introduced, extends allowing municipality to expand its urban growth boundaries to include tracts of land that are 10 acres or smaller when certain criteria are met until July 1, 2013. Amends TCA Title 6.

On motion, Senate Bill No. 1215 was made to conform with **House Bill No. 992**.

On motion, House Bill No. 992, on same subject, was substituted for Senate Bill No. 1215.

On motion of Senator Yager, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 992** passed its third and final consideration by the following vote:

Ayes	32
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--32.

A motion to reconsider was tabled.

MOTION

Senator Stewart moved that Rules 32, 33 and 37 be suspended for the introduction and immediate consideration of **Senate Joint Resolution No. 461**, out of order, which motion prevailed.

INTRODUCTION OF RESOLUTION

Senate Joint Resolution No. 461 by Senator Stewart.
Memorials, Recognition -- Donald "Ray" Gardner.

On motion of Senator Stewart, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Joint Resolution No. 461** was adopted.

A motion to reconsider was tabled.

MOTION

Senator Faulk moved that Rule 19 and Rule 38 be suspended for the purpose of making and considering Calendar No. 3 consisting of the following bills: **Senate Bills Nos. 201, 229, 306, 353, 528, 624, 725, 873, 874, 932, 940, 943, 944, 995, 1111, 1114, 1366, 1420, 1426, 1523, 1550, 1648, 1669, 1775, 1798, 1850, 1993, 2017 and 252; House Bills Nos. 257 and 432; and Senate Bills Nos. 109, 370, 372, 803, 910, 1004, 1033 and 1709**, which motion prevailed.

CALENDAR NO. 3

Senate Bill No. 201 -- Sunset Laws -- As introduced, extends the bureau of ethics and campaign finance, June 30, 2012. Amends TCA Title 4, Chapter 29 and Title 4, Chapter 55, Part 1.

On motion, Senate Bill No. 201 was made to conform with **House Bill No. 667**.

On motion, House Bill No. 667, on same subject, was substituted for Senate Bill No. 201.

Senator Watson moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 4-29-232(a), is amended by deleting subdivision (7) in its entirety.

SECTION 2. Tennessee Code Annotated, Section 4-29-237(a), is amended by adding the following language as a new subdivision thereto, as follows:

() Bureau of ethics and campaign finance, created by § 4-55-101;

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

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On motion, Amendment No. 1 was adopted.

Thereupon, **House Bill No. 667**, as amended, passed its third and final consideration by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Henry, Herron, Johnson, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--30.

A motion to reconsider was tabled.

Senate Bill No. 229 -- Administrative Procedure (UAPA) -- As introduced, continues certain permanent rules filed with secretary of state after January 1, 2010.

On motion, Senate Bill No. 229 was made to conform with **House Bill No. 648**.

On motion, House Bill No. 648, on same subject, was substituted for Senate Bill No. 229.

House Bill No. 648 passed its third and final consideration by the following vote:

Ayes	29
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Henry, Herron, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--29.

A motion to reconsider was tabled.

Senator Southerland moved that **Senate Bill No. 306** be rereferred to the Committee on Calendar, which motion prevailed.

Senator Norris moved that **Senate Bill No. 353** be placed on the first Calendar of 2012, which motion prevailed.

Mr. Speaker Ramsey moved that **Senate Bill No. 528** be moved three places down on Calendar No. 3 for today, which motion prevailed.

Senator Ketron moved that **Senate Bill No. 624** be moved five places down on Calendar No. 3 for today, which motion prevailed.

Senator Watson moved that **Senate Bill No. 725** be moved three places down on Calendar No. 3 for today, which motion prevailed.

Senator Gresham moved that **Senate Bill No. 873** be placed at the heel of Calendar No. 3 for today, which motion prevailed.

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Senator Gresham moved that **Senate Bill No. 874** be placed at the heel of Calendar No. 3 for today, which motion prevailed.

Senate Bill No. 932 -- Employees, Employers -- As introduced, makes various revisions to employment law. Amends TCA Title 50, Chapter 2; Title 50, Chapter 6 and Title 50, Chapter 7.

Senator Norris declared Rule 13 on **Senate Bill No. 932**.

Senator Faulk declared Rule 13 on **Senate Bill No. 932**.

Senator Overbey declared Rule 13 on **Senate Bill No. 932**.

Senator Norris moved that Amendment No. 1 be placed behind Amendment No. 2, which motion prevailed.

Senator McNally moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 50-7-207(e), is amended by adding the following language as a new subdivision (2) and by redesignating the existing subdivisions accordingly:

(2) Services performed by an individual who provides services as a leased-operator or an owner-operator of a motor vehicle or vehicles under contract to a common carrier conducting an interstate business while engaged in interstate commerce shall be deemed to be an excluded service for the purposes of this section, regardless of whether the common law relationship of master and servant exists, and regardless of whether the individual satisfies the requirements for included service as prescribed in subsection (e)(1); provided, that this subdivision does not apply to services performed under 50-7-207(b)(3) or (b)(4).

SECTION 2. Tennessee Code Annotated, Title 50, Chapter 2, Part 1, is amended by adding the following language as a new, appropriately designated section:

50-2-1___. This chapter shall not apply to any individual who provides services as a leased-operator or an owner-operator of a motor vehicle or vehicles under contract to a common carrier doing an interstate business while engaged in interstate commerce regardless of whether the common law relationship of master and servant exists; provided, that this chapter shall apply to those employees of the common carrier who do not provide services as a leased-operator or an owner-operator of a motor vehicle or vehicles under contract to a common carrier doing interstate business while engaged in interstate commerce.

SECTION 3. Tennessee Code Annotated, Section 50-6-206(a)(2)(A), is amended by deleting the subdivision in its entirety and by substituting instead the following:

Nothing in this section shall be construed to prohibit the parties from compromising and settling at any time the issue of future medical benefits; provided, the settlement agreement is approved by a trial court, or the commissioner or the commissioner's designee, and includes a provision confirming that the claimant has been advised of the consequences of the settlement, if any, with respect to Medicare and TennCare benefits and liabilities.

SECTION 4. Tennessee Code Annotated, Section 50-6-206(a)(2)(B), is amended by deleting the subdivision in its entirety.

SECTION 5. Tennessee Code Annotated, Section 50-6-206(a)(2)(D), is amended by deleting the subdivision in its entirety.

SECTION 6. Tennessee Code Annotated, Section 50-6-206(b), is amended by deleting the subsection in its entirety and by substituting instead the following:

Notwithstanding any other provision of this section, if there is a dispute between the parties as to whether a claim is compensable, or as to the amount of compensation due, the parties may settle the matter without regard to whether the employee is receiving substantially the benefits provided by this chapter; provided, the settlement is determined by the court, or the commissioner or the commissioner's designee, to be in the best interest of the employee.

SECTION 7. Tennessee Code Annotated, Section 50-6-204(a), is amended by deleting subdivisions (1) and (2) in their entirety and by substituting instead the following:

(1)(A) The employer or the employer's agent shall furnish, free of charge to the employee, such medical and surgical treatment, medicine, medical and surgical supplies, crutches, artificial members, and other reasonable and necessary apparatus, including prescription eyeglasses and eye wear, such nursing services or psychological services as ordered by the attending physician and hospitalization, including such dental work made reasonably necessary by accident as defined in the chapter.

(B) No medical provider shall charge more than ten dollars (\$10.00) for the first twenty (20) pages or less, and twenty-five cents (25¢) per page for each page after the first twenty (20) pages, for any medical reports, medical records or documents pertaining to medical treatment or hospitalization of the employee that are furnished pursuant to this subsection (a).

(2)(A) It is the intent of the general assembly that the administration of the workers' compensation system proceed in a timely manner and that the parties and the department have reasonable access to the employee's medical records and medical providers that are pertinent to and necessary for the swift resolution of the employee's workers' compensation claim. Notwithstanding any law to the contrary, there shall be no implied covenant of confidentiality, prohibition against ex parte communications or privacy of medical records in the custody of authorized treating physicians with respect to case managers, employers, or insurance companies, or their attorneys, if these persons comply with subdivision (a)(2)(C); provided, however that the employee, or the employee's attorney, shall be provided copies, no later than

ten (10) days in advance of a deposition of the authorized treating physician taken for any purpose or the appearance of the authorized treating physician for testimony, of any and all written memorandum or visual or recorded materials, including e-mails or other written materials:

(i) Provided to the employee's authorized treating physician by case managers, employers, insurance companies, or their attorneys; or

(ii) Received from the employee's authorized treating physician.

(B) For purposes of subdivision (a)(2)(C), "employer" means the employer, the employer's attorney, the employer's insurance carrier or third party administrator, a case manager as authorized by § 50-6-123, or any utilization review agent as authorized by § 50-6-124 during the employee's treatment for the claimed workers' compensation injury.

(C) To facilitate the timely resolution of workers' compensation claims and to facilitate the use of the benefit review process established by this chapter, there shall be reasonable access to any employee's medical information only by compliance with the following:

(i) An employee claiming workers' compensation benefits shall provide the employer or the division of workers' compensation with a signed, written medical authorization form as prescribed by the commissioner; provided, the form shall:

(a) Be addressed to a specific medical provider authorized by the employer pursuant to this section;

(b) Permit the release of information through communication, either orally or in writing, as authorized under this subdivision (a)(2)(C); and

(c) Plainly state in capitalized lettering on the face of the document the following language:

THIS MEDICAL AUTHORIZATION FORM ONLY PERMITS THE EMPLOYER OR THE DIVISION OF WORKERS' COMPENSATION TO OBTAIN MEDICAL INFORMATION THROUGH ORAL OR WRITTEN COMMUNICATION, INCLUDING, BUT NOT LIMITED TO, CHARTS, FILES, RECORDS, AND REPORTS IN THE POSSESSION OF A MEDICAL PROVIDER AUTHORIZED BY THE EMPLOYER PURSUANT TO T.C.A. § 50-6-204 AND A MEDICAL PROVIDER THAT IS REIMBURSED BY THE EMPLOYER FOR THE EMPLOYEE'S TREATMENT;

(ii) An employee claiming workers' compensation benefits, or the employee's attorney, shall be entitled to obtain medical information, records, opinions, or reports from, or communicate in

writing or in person with, any medical provider who has treated or provided medical care to the employee; provided, that the employee executes and provides the medical provider with a properly completed form as described in subdivision (a)(2)(C)(i).

(iii) Any medical provider authorized by the employer pursuant to this section and who has treated or provided medical care to an employee claiming workers' compensation benefits is permitted to communicate, orally or in writing, with the employer, or the employer's attorney, and shall honor any request by the employer for medical information, medical records, professional opinions, or medical reports pertaining to the claimed workers' compensation injury. Oral communication may be utilized, and includes, but is not limited to, a telephone conversation or an in-person meeting.

(iv) If an employee or employer files a request for assistance with the department, requesting the department to make a determination as to whether the claim is compensable or concerning an issue related to medical benefits or temporary disability benefits, the department may request, orally or in writing, medical information, records, opinions, or reports from the medical provider; provided, that:

(a) Any response by the medical provider to the department's request shall be in writing; and

(b) If the department receives documents or written responses to any request for information pursuant to this subdivision (a)(2)(C)(iv), then the department shall notify the employee, the employer and any attorney representing the employee or employer within fourteen (14) days of receipt of the document or written response that such persons may review or copy the documents or responses; provided, the requesting party shall pay the copying fee authorized by subdivision (a)(1)(B) prior to the department providing the requested copies; and

(v) If the department becomes involved in the appeal of a utilization review issue, then the department is authorized to communicate with the medical provider involved in the dispute either orally or in writing to permit the timely resolution of the issue and shall notify the employee, employer or any attorney representing the employee or employer that they may review or copy the documents or responses; provided, the requesting party shall pay the copying fee authorized by subdivision (a)(1)(B) prior to the department providing the requested copies.

(D) No relevant information developed in connection with authorized medical treatment or an examination provided pursuant to this section for which compensation is sought by the employee shall be considered a privileged communication, and no medical provider shall incur any liability as a

result of providing medical information, records, opinions, or reports as described in subdivision (a)(2)(C); provided, the medical provider complies with subdivision (a)(2)(C).

SECTION 8. Tennessee Code Annotated, Section 50-6-102(12), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(12) "Injury" and "personal injury":

(A) Mean an injury by accident, arising out of and in the course of employment, that causes either disablement or death of the employee; provided, that:

(i) An injury is "accidental" only if the injury is caused by a specific incident, or set of incidents, arising out of and in the course of employment, and is identifiable by time and place of occurrence; and

(ii) The opinion of the physician, selected by the employee from the employer's designated panel of physicians pursuant to §§ 50-6-204(a)(4)(A) or (B), shall be presumed correct on the issue of causation but said presumption shall be rebutted by a preponderance of the evidence;

(B) Include a mental injury arising out of and in the course of employment; and

(C) Do not include:

(i) A disease in any form, except when the disease arises out of and in the course and scope of employment; or

(ii) Cumulative trauma conditions, hearing loss, carpal tunnel syndrome, or any other repetitive motion conditions unless such conditions arose primarily out of and in the course and scope of employment;

SECTION 9. Tennessee Code Annotated, Section 50-6-301, is amended by designating the existing language as subsection (a), and by adding the following language as a new subsection:

(b) Cumulative trauma conditions, hearing loss, carpal tunnel syndrome, and all other repetitive motion conditions shall not be considered an occupational disease unless such conditions arose primarily out of and in the course and scope of employment. The opinion of the physician, selected by the employee from the employer's designated panel of physicians pursuant to §§ 50-6-204(a)(4)(A) or (B), shall be presumed correct on the issue of causation but said presumption shall be rebutted by a preponderance of the evidence.

SECTION 10. This act shall take effect upon becoming a law, the public welfare requiring it. For purposes of Sections 1 and 2, this act shall apply to causes of action arising on or after the effective date of this act. For purposes of Sections 3 through 9, this act shall apply to injuries occurring on or after the effective date of this act.

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On motion, Amendment No. 2 was adopted.

On motion of Senator Faulk, Amendment No. 1 was withdrawn.

Thereupon, **Senate Bill No. 932**, as amended, passed its third and final consideration by the following vote:

Ayes	27
Noes	1

Senators voting aye were: Beavers, Bell, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Henry, Kelsey, Ketron, Kyle, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--27.

Senator voting no was: Marrero--1.

A motion to reconsider was tabled.

Senate Bill No. 528 -- Taxes, Sales -- As introduced, reduces from 90 to 60 days period in which dealer via signed statement can deduct on a return sales tax collected but not yet remitted to commissioner for refunded items. Amends TCA Title 67.

Senator Ford declared Rule 13 on **Senate Bill No. 528**.

On motion, Senate Bill No. 528 was made to conform with **House Bill No. 137**.

On motion, House Bill No. 137, on same subject, was substituted for Senate Bill No. 528.

On motion of Senator McNally, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 137** passed its third and final consideration by the following vote:

Ayes	26
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Burks, Campfield, Faulk, Finney, Ford, Harper, Henry, Herron, Kelsey, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--26.

A motion to reconsider was tabled.

Senate Bill No. 725 -- General Assembly -- As introduced, abolishes certain statutorily created, legislative oversight committees and assigns certain responsibilities to certain legislative standing committees. Amends TCA Title 3; Title 4; Title 9, Chapter 4; Section 36-5-112; Title 37; Section 39-13-530; Section 40-34-107; Title 41; Title 49; Title 50; Title 68 and Title 71.

On motion of Senator Tracy, Amendment No. 1 was withdrawn.

Mr. Speaker Ramsey moved that Amendment No. 2 be placed at the heel of the Amendments, which motion prevailed.

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Mr. Speaker Ramsey moved that Amendment No. 3 be placed at the heel of the Amendments, which motion prevailed.

Senator Watson moved that **Senate Bill No. 725** be moved ten places down on Calendar No. 3 for today, which motion prevailed.

Senator Ketron moved that **Senate Bill No. 624** be placed at the heel of Calendar No. 3 for today, which motion prevailed.

Senator Kelsey moved that **Senate Bill No. 940** be moved six places down on Calendar No. 3 for today, which motion prevailed.

Senate Bill No. 943 -- Estates -- As introduced, revises various provisions relative to administration of estates in Greene County. Amends TCA Title 18; Title 30; Title 31 and Title 32.

Senator Overbey declared Rule 13 on **Senate Bill No. 943**.

Senator Beavers moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting Section 4 of the printed bill in its entirety and by substituting instead the following:

SECTION 4. This act shall take effect July 1, 2011, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Senator Beavers moved to amend as follows:

AMENDMENT NO. 2

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION ____ Tennessee Code Annotated, Section 31-1-103(b), is amended by deleting subdivision (2) in its entirety and by substituting instead the following language:

(2)(A) Except as provided in subdivision (b)(2)(B), the writing is received by the transferor of the interest, the transferor's legal representative, or the holder of the legal title to the property to which the interest relates, and, if the subject of the disclaimer is realty, is filed in the county register's office and, if the disclaimer involves an interest in a decedent's estate, with the court in which the decedent's estate proceedings are or would be pending not later than the date which is nine (9) months after the later of:

(i) The date on which the transfer creating the interest or power in the person is made; or

(ii) The day on which the person attains age twenty-one (21).

(B)(i) It is the intent of the general assembly that this subdivision (b)(2)(B) conform state law to extend the time period for certain disclaimers as authorized by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Pub.L. 111-312).

(ii) In the case of the estate of a decedent dying after December 31, 2009, but before January 1, 2011, the writing is received by the transferor of the interest, the transferor's legal representative, or the holder of the legal title to the property to which the interest relates, and, if the subject of the disclaimer is realty, is filed in the county register's office and, if the disclaimer involves an interest in a decedent's estate, with the court in which the decedent's estate proceedings are or would be pending not later than the later of:

(a) September 17, 2011; or

(b) The date which is nine (9) months after the later of:

(1) The date on which the transfer creating the interest or power in the person is made; or

(2) The day on which the person attains age twenty-one (21).

On motion, Amendment No. 2 was adopted.

Thereupon, **Senate Bill No. 943**, as amended, passed its third and final consideration by the following vote:

Ayes	26
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Campfield, Crowe, Faulk, Finney, Ford, Harper, Henry, Herron, Kelsey, Ketron, Kyle, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--26.

A motion to reconsider was tabled.

NOTICE

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 530. The House refused to recede from its action in nonconcurring in Senate Amendment No. 2. The Speaker appointed a Conference Committee composed of Representatives Ford, Campbell and Kent Williams to confer with a like committee from the Senate in open conference to resolve the differences between the Bodies on House Bill No. 530.

JOE MCCORD,
Chief Clerk.

Senator Crowe moved that the Speaker appoint a Conference Committee to meet with a like committee from the House to resolve the differences between the two Bodies on **House Bill No. 530**, which motion prevailed.

**APPOINTMENT OF SELECT COMMITTEE
CONFERENCE COMMITTEE
ON
HOUSE BILL NO. 530**

The Speaker announced the appointment of a Conference Committee composed of Senators Crowe, Chairperson; Faulk and Barnes to confer with a like committee from the House to resolve the differences of the two Bodies on House Bill No. 530.

CALENDAR NO. 3

Senate Bill No. 944 -- Naming and Designating -- As introduced, designates welcome center at Exit 9 on Interstate 26 in Unicoi County as the "Zane Whitson Welcome Center".

Senator Overbey declared Rule 13 on **Senate Bill No. 944**.

On motion, Senate Bill No. 944 was made to conform with **House Bill No. 1023**.

On motion, House Bill No. 1023, on same subject, was substituted for Senate Bill No. 944.

Senator McNally moved to amend as follows:

AMENDMENT NO. 1

AMEND by adding the following after the first sentence in Section 2 of the printed bill:

The cost of such signage shall be funded in accordance with Tennessee Code Annotated, § 54-1-133.

On motion, Amendment No. 1 was adopted.

Thereupon, **House Bill No. 1023**, as amended, passed its third and final consideration by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Barnes, Beavers, Bell, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Henry, Herron, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--30.

A motion to reconsider was tabled.

Senate Bill No. 995 -- Taxes, Litigation -- As introduced, allows Loudon County to impose additional \$5.00 litigation tax on all civil and criminal cases to be used for grants to Court Appointed Special Advocates (CASA). Amends TCA Title 36, Chapter 3; Title 36, Chapter 6; Title 39, Chapter 13 and Title 67, Chapter 4, Part 6.

On motion, Senate Bill No. 995 was made to conform with **House Bill No. 1248**.

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On motion, House Bill No. 1248, on same subject, was substituted for Senate Bill No. 995.

House Bill No. 1248 passed its third and final consideration by the following vote:

Ayes	26
Noes	0
Present, not voting . . .	1

Senators voting aye were: Beavers, Bell, Burks, Crowe, Faulk, Finney, Ford, Harper, Henry, Herron, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--26.

Senator present and not voting was: Campfield--1.

A motion to reconsider was tabled.

Senator Kelsey moved that **Senate Bill No. 1111** be moved two places down on Calendar No. 3 for today, which motion prevailed.

Senator Kelsey moved that **Senate Bill No. 1114** be moved five places down on Calendar No. 3 for today, which motion prevailed.

Senator Finney moved that **Senate Bill No. 1366** be rereferred to the Committee on Calendar, which motion prevailed.

Senator Kelsey moved that **Senate Bill No. 940** be moved five places down on Calendar No. 3 for today, which motion prevailed.

Senate Bill No. 1420 -- Regional Authorities and Special Districts -- As introduced, enacts the "Border Region Retail Tourism Development District Act". Amends TCA Title 7 and Title 67, Chapter 6.

Senator Faulk moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 7, is amended by adding Sections 2 through 12 as a new chapter thereto.

SECTION 2. This chapter shall be known and may be cited as the "Border Region Retail Tourism Development District Act".

SECTION 3. The purpose of this chapter is to increase tourism and the competitiveness of this state with bordering states by empowering local governments to encourage the development of extraordinary retail or tourism facilities, including shopping, recreational, and other activities.

SECTION 4. As used in this chapter, unless the context otherwise requires:

(1) "Base tax revenues" means the revenues generated from the collection of state sales and use taxes from all businesses within the applicable border region retail tourism development district as of the end of the fiscal year of this state immediately prior to the year in which the municipality or industrial development corporation is entitled to receive an allocation of tax revenue pursuant to this chapter. In no event shall the apportionment pursuant to this chapter be adjusted to reduce the economic benefit to the municipality as is provided in this chapter;

(2) "Best interests of the state" means a determination by the Commissioner of Revenue, with approval by the Commissioner of Economic and Community Development, that:

(A) The economic development project or extraordinary retail or tourism facility within the district is a result of the special allocation and distribution of state sales tax provided for in Section 7; and

(B) The district is a result of the project or extraordinary retail or tourism facility;

(3) "Border region retail tourism development district" or "district" means one (1) or more parcels of real property located within a municipality, some part of whose corporate limits borders a neighboring state, and which some boundary of a district is no more than one-half (1/2) mile from an existing federally-designated interstate exit, is no more than twelve (12) miles from a state border as measured by straight line, is no larger than a total area of nine hundred fifty (950) acres, and designated as a border region retail tourism development district by a municipal ordinance and certified by the commissioner;

(4) "Commissioner" means the Commissioner of Revenue;

(5) "Cost" means all cost of an economic development project in a district incurred by the municipality or industrial development corporation including, but not limited to, the cost of developing the district, as well as acquisition, design, construction, renovation, improvement, demolition, and relocation of any improvements; the cost of labor, materials, and equipment; the cost of all lands, property rights, easements and franchises required; financing charges, interest, and debt service prior to, during, or after construction; the cost of issuing bonds in connection with any financing, cost of plans and specifications, services and estimates of costs and of revenue; cost of direct or indirect assistance, including funds for location assistance; cost of site preparation, engineering, accounting, and legal services; all expenses necessary or incident to determining the feasibility or practicability of such acquisitions or constructions; salaries, overhead, and other costs of the municipality or industrial development corporation allocated to the project, including new development or subsequent phases of the project to be completed within the thirty-year period established in Section 5(d), and administrative, legal, and engineering expenses and such other expenses as may be necessary or incident to such acquisition, design, construction, renovation, demolition, relocation, or the financing thereof, including any such costs incurred by a municipality or industrial development corporation relating to the development of an extraordinary retail or tourism facility within two years (2) prior to the municipality's designation of the proposed border region retail tourism development district for such project;

(6) "Economic development project" or "project" means the provision of direct or indirect financial assistance, including funds for location assistance, to an extraordinary retail or tourism facility and other retail or tourism facilities developed to accompany the extraordinary retail or tourism facility in a border region retail tourism development district by a municipality or an industrial development corporation including, but not limited to, the purchase, lease, grant, construction, reconstruction, improvement, or other acquisition or conveyance of land, buildings or equipment, or other infrastructure; public works improvements essential to the location of an extraordinary retail or tourism facility and other retail or tourism facilities developed to accompany the extraordinary retail or tourism facility; payments for professional services contracts necessary for a municipality or industrial development corporation to implement a plan or project; the provision of direct loans or grants for land, buildings, or infrastructure; and loan guarantees securing the cost of land, buildings, location assistance, or infrastructure in an amount not to exceed the revenue that may be derived from the sales and use tax transferred to the municipality as provided in this chapter. It also includes development of parks, plazas, sidewalks, access ways, roads, drives, bridges, ramps, landscaping, signage, parking lots, parking structures, and other public improvements constructed or renovated by the municipality or an industrial development corporation in connection with the project in the district and any related infrastructure and utility improvements for public or private peripheral development for the district and which is constructed, renovated, or installed by the municipality or an industrial development corporation;

(7) "Extraordinary retail or tourism facility" means a single store, series of stores, or other public tourism facility or facilities located within a border region retail tourism development district, and shall include retail or other public tourism facilities that are reasonably anticipated to draw at least one million (1,000,000) visitors a year upon completion. The extraordinary retail or tourism facility shall reasonably be expected to require a capital investment of at least twenty million dollars (\$20,000,000) including land, buildings, site preparation costs, and is reasonably anticipated to remit at least two million dollars (\$2,000,000) in state sales and use tax, annually, when completed;

(8) "Industrial development corporation" means a corporation created or authorized by a municipality or county pursuant to Chapter 53 of this title;

(9) "Municipal governing body" means the city council, city commission, or board of mayor and aldermen of a city; and

(10) "Municipality" means an incorporated city located in this state.

SECTION 5. (a) To be entitled to receive the apportionment of state sales and use taxes as provided in this chapter, the requirements set forth in subdivisions (1) - (4) shall be met.

(1) A municipal legislative body shall adopt an ordinance designating the boundaries of the border region retail tourism development district; provided, however, no municipality shall contain more than one (1) such district.

(2) The municipality shall then file a certified copy of the ordinance with the commissioner along with a request for certification of the district. The request shall include a master development plan for the proposed district containing such information as may be reasonably required by the commissioner.

(3) The commissioner shall promptly review the request to confirm that the proposed boundaries of the proposed border region retail tourism development district do not exceed the maximum size set forth in this chapter. If the commissioner determines that the boundaries of the proposed border region retail tourism development district exceeds the area allowed by this chapter, then the commissioner may adjust or reduce the boundaries of the proposed district in consultation with the municipality. In reviewing the request, the commissioner shall inform the Commissioners of Economic and Community Development and Tourist Development of the pending request.

(4) If the commissioner, with approval by the Commissioner of Economic and Community Development, determines that the special allocation of state sales tax, as authorized by Section 7 of this act, is in the best interests of the state, then the commissioner shall approve the request and certify the district. Upon certification of the district, the commissioner shall provide prompt notice of the certification to the Commissioner of Economic and Community Development, the Commissioner of Tourist Development, and the requesting municipal governing body.

(b) Upon certification of the district, state sales and use taxes shall be apportioned and distributed to the municipality as provided in this chapter.

(c) The apportionment and distribution of state sales and use taxes to the municipality as provided in this chapter shall commence at the beginning of the fiscal year after the certification of the district; provided, that prior to the beginning of such fiscal year and on an annual basis thereafter, the municipality shall submit to the commissioner a summary of the cost of the economic development project with supporting documentation, certified by the chief financial officer of the municipality, which shall include the cost of any new phases or additional development of the project to be completed within the thirty-year time limitation established in subsection (d). The commissioner shall review the cost certification to confirm that state sales and use taxes, in the amount determined by the commissioner, should be apportioned and distributed to the municipality pursuant to this chapter and shall notify the Department of Economic and Community Development of such.

(d) Additional development or new phases of a project within a certified district shall not be initiated after the expiration of twenty (20) years following certification of the district. The certified district shall be dissolved following the expiration of thirty (30) years, or upon the date on which the cost of the project has been fully paid, whichever is sooner; provided, that the thirty-year period in this subsection (d) shall be concurrent with the time limitation established in Section 7 of this act.

SECTION 6. Annual adjustments to the sales and use tax revenues collected in the district shall be made by the Department of Revenue within ninety (90) days of the end of each fiscal year and shall be effective immediately upon notification of such adjustment from the Department of Revenue to the municipality or industrial development corporation.

SECTION 7. (a) Notwithstanding the allocations provided for in § 67-6-103(a), if a municipality or industrial development corporation finances, constructs, leases, equips, renovates, assists, incents, or acquires an extraordinary retail or tourism facility or a project in a certified district, then seventy-five percent (75%) of state sales and use tax collected in the district in excess of base tax revenues shall be apportioned and distributed to the municipality in an amount equal to the incremental increase in state sales and use taxes derived from the sale of goods, products, and services within the district in excess of base tax revenues.

(b) Apportionment and distribution of such taxes shall continue for a period of thirty (30) years, or until the date on which all the cost of the economic development project, including any principal and interest on indebtedness, including refunding indebtedness of the municipality or industrial development corporation related to the development of the project have been fully paid, whichever is sooner. Following the expiration of this thirty-year period, or upon the date on which such cost has been fully paid, whichever is sooner, all amounts that would have otherwise been distributed to the municipality or retained in lieu of distribution shall be allocated as provided elsewhere without regard to this chapter.

(c) Tax revenue distributed to the municipality pursuant to this chapter shall be for the exclusive use of the municipality or the industrial development corporation formally designated by the municipality for payment of the cost of the economic development project, including principal and interest on indebtedness, including refunding indebtedness of the municipality or industrial development corporation related to the development of the project. The apportionment and payment shall be made by the department of revenue to the municipality within ninety (90) days of the end of each fiscal year for which the municipality is entitled to receive an allocation and payment pursuant to this chapter.

SECTION 8. An eligible municipality in which a district is located is authorized to delegate to any industrial development corporation within the county or counties where the municipality is located the authority to carry out all or part of the project and to issue revenue bonds to finance a project within a district and to incur cost for the project; provided, that the municipality may enter into an agreement with an industrial development corporation in which the municipality shall agree to promptly pay to the industrial development corporation the tax revenues received pursuant to this chapter sufficient to service the repayment of such bonds and costs incurred by the industrial development corporation for the project. Upon receipt, that portion of such tax revenues shall be held in trust by the municipality for the benefit of the industrial development corporation.

SECTION 9. Any bonds, notes, refunding bonds, or other indebtedness relative to the cost of a economic development project shall not be issued for a term longer than thirty (30) years and the municipality or industrial development corporation is authorized to pledge all proceeds or taxes received by it pursuant to this chapter to the payment of principal of and interest on such bonds, notes, or other indebtedness; provided, that the thirty-year period in this section shall be concurrent with the time limitation established in Section 7 of this act.

SECTION 10. Prior to the issuance of any bonds to finance the cost of an economic development project that will be repaid in whole or part from apportionments under this chapter, the municipality or industrial development corporation issuing such bonds shall submit a proposed debt amortization schedule for such bonds to the commissioner for

approval. Such schedule shall show the anticipated contribution to be made to the annual debt service for such bonds from the apportionment of sales and use taxes pursuant to this chapter and all other sources. After the date of issuance of such bonds, the municipality shall continue to contribute each year thereafter until such bonds are retired or a sufficient sinking fund has been established for their retirement.

SECTION 11. A municipality may, including through an industrial development corporation, limit, condition, or provide incentives or financial support in the district as it deems appropriate, including the requirement that the benefited property owners participate in the repayment of such in an amount equal to twenty-five percent (25%) of the property tax for the real property owned by the property owner in the district each year, for such length of time as the municipality receives an appropriation of sales and use tax in accordance with this chapter and the property owner provides a lien on the property for such repayment; provided, however, a municipality may not provide financial assistance to the location or relocation of existing retailers located within a fifteen-mile radius of the district, provided such existing location is inside the borders of this state, unless the sales floor space is increased by thirty-five percent (35%) or greater from such existing store. Furthermore, a municipality may allocate some or all of the incremental increase in property tax revenue directly as a result of the development within the district to pay for some costs associated with the district formation as well as economic development projects or extraordinary retail or tourism projects within the district.

SECTION 12. Notwithstanding any law to the contrary, the municipality and the industrial development corporation are authorized to exercise all power and rights, express or implied, granted by this chapter.

SECTION 13. Tennessee Code Annotated, Section 7-53-101(13), is amended by adding the following new, appropriately designated subdivision:

() Any economic development project as defined in this chapter;

SECTION 14. Tennessee Code Annotated, Section 67-6-103, is amended by adding the following new, appropriately designated subsection:

() Notwithstanding the provisions of Section 7 of this act to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to Acts 1992, Ch. 529, § 9, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in Acts 2002, Ch. 856, § 4, shall be distributed to the municipality. The revenue shall continue to be allocated as provided in Acts 1992, Ch. 529 and Acts 2002, Ch. 856, respectively.

SECTION 15. Tennessee Code Annotated, Section 67-6-601(c), is amended by adding at the end of the last sentence of that subsection before the period the language "and industrial development corporations created pursuant to Title 7, Chapter 53".

SECTION 16. This act shall take effect on July 1, 2011, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Senator Faulk moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting the language "this chapter" in the amendatory language of Section 13 and by substituting instead the language "Section 4".

On motion, Amendment No. 2 was adopted.

Thereupon, **Senate Bill No. 1420**, as amended, passed its third and final consideration by the following vote:

Ayes	26
Noes	0
Present, not voting . . .	2

Senators voting aye were: Barnes, Beavers, Bell, Burks, Campfield, Crowe, Faulk, Finney, Gresham, Harper, Herron, Kelsey, Ketron, Kyle, McNally, Norris, Overbey, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--26.

Senators present and not voting were: Henry and Roberts--2.

A motion to reconsider was tabled.

FURTHER ACTION ON SENATE BILL NO. 725

Senator Watson moved that **Senate Bill No. 725** be moved five places down on Calendar No. 3 for today, which motion prevailed.

Senate Bill No. 1111 -- Courts, Juvenile -- As introduced, grants temporary jurisdiction to juvenile court when another court has previously had jurisdiction, including allowing emergency temporary orders in cases of dependency, neglect, abuse or orders of protection. Amends TCA Section 37-1-103.

Senator Overbey declared Rule 13 on **Senate Bill No. 1111**.

On motion, Senate Bill No. 1111 was made to conform with **House Bill No. 712**.

On motion, House Bill No. 712, on same subject, was substituted for Senate Bill No. 1111.

On motion of Senator Beavers, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 712** passed its third and final consideration by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Burks, Campfield, Crowe, Faulk, Finney, Gresham, Harper, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--30.

A motion to reconsider was tabled.

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Mr. Speaker Ramsey moved that **Senate Bill No. 1114** be moved five places down on Calendar No. 3 for today, which motion prevailed.

Mr. Speaker Ramsey moved that **Senate Bill No. 940** be moved five places down on Calendar No. 3 for today, which motion prevailed.

FURTHER ACTION ON SENATE BILL NO. 725

Senator Kyle moved that Amendment No. 4 be placed at the heel of the Amendments, which motion prevailed.

On motion of Senator McNally, Amendment No. 5 was withdrawn.

Senator McNally moved to amend as follows:

AMENDMENT NO. 6

AMEND by deleting the final section in its entirety and by substituting instead the following language:

SECTION 11. This act shall take effect July 1, 2011, the public welfare requiring it.

On motion, Amendment No. 6 was adopted.

Senator Stewart moved that Amendment No. 2 be placed behind Amendment No. 3, which motion prevailed.

Senator Stewart moved to amend as follows:

AMENDMENT NO. 3

AMEND by deleting amendatory subsection (a) in Section 1 of the bill in its entirety and substituting instead the following:

(a) Tennessee Code Annotated, Title 3, Chapter 15, is amended by deleting Part 1 and Parts 3 through 10 of the chapter and redesignating the remaining part appropriately.

AND FURTHER AMEND by deleting Section 3 of the bill in its entirety and substituting instead the following:

SECTION 3. Tennessee Code Annotated, Section 37-10-401(d), is amended by deleting the language ", the select joint committee on children and youth, and the TennCare oversight committee," in its entirety and by substituting instead the language "and the select joint committee on children and youth,".

Senator Watson moved that Amendment No. 3 go to the table, which motion prevailed by the following vote:

Ayes 18
Noes 10

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Senators voting aye were: Beavers, Bell, Campfield, Crowe, Faulk, Gresham, Johnson, Kelsey, Ketron, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Yager and Mr. Speaker Ramsey--18.

Senators voting no were: Barnes, Burks, Finney, Harper, Henry, Herron, Kyle, Marrero, Stewart and Tate--10.

Senator Stewart moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting amendatory subsection (a) in Section 1 in its entirety and by substituting instead the following language:

(a) Tennessee Code Annotated, Title 3, Chapter 15, is amended by deleting Parts 2 through 10 in their entirety.

AND FURTHER AMEND by deleting Section 2 in its entirety and by substituting instead the following language:

SECTION 2. (a) Tennessee Code Annotated, Section 41-21-238, is amended by deleting subsection (b) in its entirety and by substituting instead the following language:

(b) Upon completion of the plan, the commissioner shall submit it to the select oversight committee on corrections to discuss its implementation and funding. The commissioner shall also submit to such committee any recommended legislation that is necessary for the implementation of the plan.

(b) Tennessee Code Annotated, Section 41-21-238(d), is amended by deleting the language "the select oversight committee on corrections and the select oversight committee on education" and by substituting instead the language "the select oversight committee on corrections".

Senator Watson moved that Amendment No. 2 go to the table, which motion prevailed by the following vote:

Ayes 19
Noes 10

Senators voting aye were: Beavers, Bell, Campfield, Crowe, Faulk, Gresham, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Yager and Mr. Speaker Ramsey--19.

Senators voting no were: Barnes, Burks, Finney, Ford, Harper, Herron, Kyle, Marrero, Stewart and Tate--10.

On motion of Senator Kyle, Amendment No. 4 was withdrawn.

Thereupon, **Senate Bill No. 725**, as amended, passed its third and final consideration by the following vote:

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Ayes 21
Noes 9
Present, not voting . . . 1

Senators voting aye were: Beavers, Bell, Campfield, Crowe, Faulk, Gresham, Henry, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--21.

Senators voting no were: Barnes, Burks, Finney, Harper, Herron, Kyle, Marrero, Stewart and Tate--9.

Senator present and not voting was: Ford--1.

A motion to reconsider was tabled.

Mr. Speaker Ramsey moved that **Senate Bill No. 1426** be moved three places down on Calendar No. 3 for today, which motion prevailed.

Mr. Speaker Ramsey moved that **Senate Bill No. 1523** be moved three places down on Calendar No. 3 for today, which motion prevailed.

Senator Ketron moved that **Senate Bill No. 1550** be moved three places down on Calendar No. 3 for today, which motion prevailed.

Mr. Speaker Ramsey moved that **Senate Bill No. 1648** be moved five places down on Calendar No. 3 for today, which motion prevailed.

Mr. Speaker Ramsey moved that **Senate Bill No. 1426** be moved five places down on Calendar No. 3 for today, which motion prevailed.

Senate Bill No. 1669 -- Immigration -- As introduced, enacts the "Tennessee Lawful Employment Act". Amends TCA Title 3; Title 4; Title 5; Title 6; Title 7; Title 8; Title 12; Title 39 and Title 50.

On motion, Senate Bill No. 1669 was made to conform with **House Bill No. 1378**.

On motion, House Bill No. 1378, on same subject, was substituted for Senate Bill No. 1669.

On motion of Senator Faulk, Amendment No. 1 was withdrawn.

On motion of Senator McNally, Amendment No. 2 was withdrawn.

Thereupon, **House Bill No. 1378** passed its third and final consideration by the following vote:

Ayes 29
Noes 2

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Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Herron, Johnson, Kelsey, Ketron, Kyle, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--29.

Senators voting no were: Henry and Marrero--2.

A motion to reconsider was tabled.

Senate Bill No. 1114 -- Civil Procedure -- As introduced, declares that a moving party prevails on a motion for summary judgment if it submits affirmative evidence negating an element of a nonmoving party's claim or demonstrates that the nonmoving party's evidence is insufficient to establish an essential element. Amends TCA Title 20.

Senator Overbey declared Rule 13 on **Senate Bill No. 1114**.

Senator Finney declared Rule 13 on **Senate Bill No. 1114**.

Senator Barnes declared Rule 13 on **Senate Bill No. 1114**.

Senator Berke declared Rule 13 on **Senate Bill No. 1114**.

On motion, Senate Bill No. 1114 was made to conform with **House Bill No. 1358**.

On motion, House Bill No. 1358, on same subject, was substituted for Senate Bill No. 1114.

On motion of Senator Beavers, Amendment No. 1 was withdrawn.

Senator Kelsey moved that **House Bill No. 1358** be moved five places down on Calendar No. 3 for today, which motion prevailed.

NOTICE

**REPORT OF SELECT COMMITTEE
CONFERENCE COMMITTEE REPORT ON
HOUSE BILL NO. 130/SENATE BILL NO. 113**

The House and Senate Conference Committee appointed pursuant to motions to resolve the differences between the two houses on House Bill No. 130 (Senate Bill No. 113) has met and recommends that all amendments be deleted:

The Committee further recommends that the following amendment be adopted:

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 5, Part 6, known as the Education Professional Negotiations Act, is amended by deleting the part in its entirety and by substituting instead the following language:

49-5-601. Short title—Statement of purpose.

(a) This part shall be known and may be cited as the "Professional Educators Collaborative Conferencing Act of 2011".

(b)(1) Local boards of education and their professional employees have an obligation to the public to exert their full and continuing efforts to achieve the highest possible education standards in the institutions that they serve. This requires establishment and maintenance of an educational climate and working environment that will attract and retain a highly qualified professional staff and foster open, collaborative relationships between boards of education and their professional employees based upon mutual respect, in order to stimulate optimum performance by the staff and encourage each and every professional employee to contribute the employee's best to the enhancement of public schools. In order to best achieve these ends, it is the purpose of this part to set forth and recognize the legitimate rights and obligations of boards of education and their professional employees, to establish procedures governing their respective roles and the important relationships between them, and to promote a professional climate based upon mutual interest in order to focus efforts on teaching and learning for all students of the public schools.

(2) Experience has shown that boards of education and their professional employees can best reach the objectives described in subdivision (b)(1), if each considers the ability, experience and judgment of the other in formulating policies and making decisions that involve the operations of Tennessee's public schools through a collaborative effort of mutual interest and mutual gain. It also has been shown that professional employees can perform at their best when goals and expectations as to the terms and conditions of professional service are set forth with clarity, reliability and fairness to all in a manner demonstrating concern and respect for the interests of the individual employee.

(3) It is the purpose and policy of this part to recognize the interests of individual employees in their relations with boards of education and to recognize certain rights, but not obligations, of professional employees to form, join and assist professional employees' organizations, such rights and responsibilities to include meeting, consulting and conferencing with boards of education in order to discuss matters relating to specific terms and conditions of professional service. Furthermore, in order to foster trust and mutual respect among the parties, and to provide an open and collaborative problem-solving approach to such conferencing, it is the purpose and policy of this part to recognize and adopt the principles and techniques known as interest-based collaborative problem-solving for use in conferences conducted pursuant to this part.

(c) A training program in the principles and techniques of interest-based collaborative problem-solving for use in collaborative conferencing pursuant to this part shall be developed by the Tennessee Organization of

School Superintendents in conjunction with representative organizations of school leaders and administrators and professional employees' organizations by January 1, 2012, at which time a summary report of the training program and related materials, if any, shall be presented to the Education Committees of the Senate and the House of Representatives. Such training program shall be implemented, as appropriate, within each local education agency no later than July 1, 2012.

(d) Any and all bargaining being conducted pursuant to the Education Professional Negotiations Act on the effective date of this act shall be suspended indefinitely.

(e) No collaborative conferencing pursuant to this part shall be conducted by a local board of education until the training developed under this part has been implemented within the local education agency.

49-5-602. Part definitions. As used in this part, unless the context otherwise requires:

(1) "Board of education" or "local board of education" has the same meaning as the term is defined in § 49-1-103;

(2) "Collaborative conferencing" means the process by which the chair of a board of education and the board's professional employees, or such representatives as either party or parties may designate, meet at reasonable times to confer, consult and discuss and to exchange information, opinions and proposals on matters relating to the terms and conditions of professional employee service, using the principles and techniques of interest-based collaborative problem-solving;

(3) "Management personnel" means those professional employees certified by the local board of education to represent the board in the collaborative conferencing process;

(4) "Management team" means employees who devote a majority of their time to the system-wide area or areas of professional personnel management, fiscal affairs or general management and shall specifically include principals, assistant principals, supervisors and others whose principal responsibilities are administration rather than teaching;

(5) "Memorandum of understanding" means the written document that memorializes and records the understanding reached by the board of education and its professional employees, or their respective representatives, if so designated, as to the terms and conditions of professional services set forth in this part. The memorandum shall be presented in its entirety to the board of education, to all professional employees covered by the memorandum and to the public, upon request;

(6) "Person" means one (1) or more individuals, organizations, associations, or their representatives;

(7) "Political activity" includes, but is not limited to:

(A) Lobbying as defined in § 3-6-301;

(B) Making contributions to any entity which engages in any form of political communication, including communications which mention the name of a political candidate;

(C) Engaging in or paying for public opinion polling;

(D) Engaging in or paying for any form of political communication, including communications which mention the name of a political candidate;

(E) Engaging in or paying for any type of political advertising in any medium;

(F) Telephone communication for any political purpose;

(G) Distributing political literature of any type; or

(H) Providing any type of in-kind help or support to or for a political candidate;

(8) "Professional employee" means any person employed by any local board of education in a position that requires a license issued by the Department of Education for service in public elementary and secondary schools of this state, supported, in whole or in part, by local, state or federal funds, but shall not include any member of the management team, as defined in this part, or a retired teacher who is employed as a teacher in accordance with Title 8, Chapter 36, Part 8;

(9) "Professional employees' organization" means any organization with membership open to professional employees, as defined in subdivision (8), in which the professional employees participate and that exists for the purpose of promoting the professional status and growth of educators and the welfare of students;

(10) "Representative" includes any person, or group of persons, organization or association that is designated and authorized by professional employees or local board of education to act for the professional employees or the local board, respectively, under this part;

(11) "Strike" means the failure with others to report for duty, the willful absence from one's position, the stoppage of work or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment, and without the lawful approval of one's superior; or in any manner interfering with the operation of the public school system, for the purpose of inducing or coercing the recognition of any employee organization or a change in the conditions or compensation or the rights, privileges or obligations of employment;

(12) "Supervisor" means any professional employee of a local board of education whose full-time job responsibilities consist of oversight of other professional employees or curriculum development or both; and

(13) "Working conditions of professional employees" or "terms and conditions of professional service" means those fundamental matters that affect a professional employee financially or the employee's employment relationship with the board of education and that are specifically designated as such under this part. The term "working conditions" or "terms and conditions of professional service" is intended to be narrowly defined and does not include any matters not specifically designated under this part.

49-5-603. Rights of professional employees.

Professional employees have the right to self-organization, to form, join or be assisted by organizations, to participate in collaborative conferencing with local boards of education through representatives of their own choosing and to engage in other concerted activities for the purpose of other mutual aid and benefit; provided, that professional employees also have the right to refrain from any or all such activities.

49-5-604. Rights preserved.

(a) Those rights and responsibilities of boards of education, directors of schools and professional employees as contained in this title are not statutorily modified or repealed by this act.

(b) This part shall not operate so as to annul or modify any recognition heretofore entered into between a board of education and a professional employees' organization until the termination of an existing agreement between a local board of education and a professional employees' organization. Upon the termination of any existing agreement, subsequent professional employee relationships between the respective board of education and its professional employees shall be governed by this part.

49-5-605. Representatives.

(a) Experience has shown that efforts to confer, consult, discuss, and to exchange information, opinions, and proposals on terms and conditions of professional service are most efficient and effective when conducted by participants who are selected and authorized to represent individual professional employees or groups of employees. It is the policy and purpose of this part to ensure the rights of professional employees to participate in collaborative conferencing with boards of education through representatives of their own choosing. No professional employee, group of professional employees, or professional employee organization shall be denied the opportunity to represent themselves or groups of professional employees in discussions authorized under this part.

(b)(1) Upon the submission by fifteen percent (15%) or more of the professional employees in an LEA of a written request to conduct collaborative conferencing with a board of education between October

1 and November 1 of any year, the board of education shall appoint an equal number of its professional employees and board members to serve on a special question committee for the purpose of conducting a confidential poll of all eligible professional employees as provided in subdivision (b)(2).

(2) The confidential poll shall be by secret ballot and shall require the employee to respond to two (2) questions. The first question shall request the employee to respond "YES" or "NO" to the question:

Shall the professional employees of this LEA undertake collaborative conferencing with the board of education?

If the employee responds "YES" to the first question, then the second question shall request that the employee indicate which organization the employee prefers to represent the employee in collaborative conferencing by checking the box related to one (1) of the professional employees' organizations having a presence in the LEA. The second question shall also include a box for the response of "unaffiliated", if an employee does not have a preference as to a professional employees' organization. If the employee responds "NO" to the first question, then the second question shall request the employee to express a preference for one (1) of the professional employees' organizations. The second question shall also provide for a response of "unaffiliated", if an employee does not have a preference of a professional employees' organization, or a response of "none of the above", if the employee does not want to be represented in collaborative conferencing, if such conferencing should occur.

(3) No board of education shall have a duty or obligation to engage in collaborative conferencing with its professional employees pursuant to this part unless a majority of those eligible to vote in the poll under subdivision (b)(2) respond "YES" to the first question.

(4) Upon receiving the results of the poll in which the majority of those eligible to vote respond "YES" to the first question, the board of education shall appoint at least seven (7), but no more than eleven (11) persons, to serve as management personnel. The professional employees shall be entitled to the same number of representatives as the number of management personnel selected by the board of education. The professional employee representatives shall be selected according to each organization's proportional share of the responses to the second question; provided, however, that only those professional employees' organizations receiving fifteen percent (15%) or more of the responses to the second question shall be entitled to representation. The category of "unaffiliated" as a response to the second question, but not the category of "none of the above", shall be considered a professional employees' organization for the purposes of this subdivision.

(5) If fifteen percent (15%) or more of the professional employees polled indicate a preference for an unaffiliated representative, then the special question committee shall select and appoint a person or persons to serve as an unaffiliated representative or representatives according to the proportional share of responses to the second question in the category "unaffiliated".

(6)(A) The term of the members of the panel constituted as the result of a poll in which the majority of those eligible to vote respond "YES" to the first question shall be three (3) years. If a vacancy occurs on the panel, then the appointing body which appointed the member to the position that became vacant shall appoint a replacement for the remainder of the term. Prior to expiration of the terms of the members of the panel, a new poll shall be conducted under this subsection (b) to determine whether the professional employees want to continue to engage in collaborative conferencing.

(B) Notwithstanding the provisions of subdivision (A) to the contrary, a memorandum of understanding may provide for polls after a poll in which the majority of those eligible to vote responded "YES" to the first question to occur more frequently than once every three (3) years. The term of the members selected for the panel after such poll shall be the length of time specified by the memorandum of understanding between two (2) polls.

(c) Each professional employees' organization receiving fifteen percent (15%) or more of the responses shall select and appoint the appropriate number of persons to serve as representatives of the professional employees preferring that organization. The board of education shall select and appoint its representatives. Representatives shall be appointed no later than December 1.

(d) If a majority vote to conduct collaborative conferencing is not secured, then during any subsequent year, the professional employees may again seek to engage in collaborative conferencing pursuant to subsection (b).

(e) The results of the confidential poll and the names and positions of the appointed representatives shall be transmitted to the board, professional employees and professional employee organizations prior to January 1 next.

(f) Those persons or organizations initiating the poll shall be assessed the reasonable costs necessitated in conducting the poll by the chair of the special question committee.

49-5-606. Unlawful acts.

(a) It is unlawful for a board of education or its management personnel to:

(1) Impose or threaten to impose reprisals on professional employees or discriminate against professional employees by reason of their exercise of rights guaranteed by this part;

(2) Interfere with, restrain or coerce employees in the exercise of the rights guaranteed in § 49-5-603;

(3) Refuse or fail to participate in collaborative conferencing under this part;

(4) Refuse to permit any professional employees' organization to have access at reasonable times before or after the instructional day to areas in which professional employees work, to use institutional bulletin boards, mail boxes or other communication media or to use institutional facilities as permitted by a local board's policy or procedure for community use at reasonable times for the purpose of holding a meeting concerned with the exercise of the rights guaranteed by this part;

(5) Encourage or discourage membership in any organization by discrimination in hiring, granting of tenure or other terms or conditions of employment. The board of education or management personnel may express any views or opinions on the subject of employer-employee relations; provided, however, that such expression shall contain no threat of reprimand, discharge or promise of benefits;

(6) Discharge or discriminate against an employee because the employee has filed an affidavit, petition, or complaint or given any information or testimony under this part; or

(7) Dominate, interfere or assist in the administration of any professional employee organization.

(b) It is unlawful for a professional employees' organization or its representatives to:

(1) Cause or attempt to cause a board of education to engage in conduct violative of this part; provided, that this subdivision (b)(1) shall not be construed to impair the right of professional employees' organizations to prescribe their own rules with respect to operation involving the acquisition or retention of membership;

(2) Refuse or fail to participate in collaborative conferencing under this part with a board of education;

(3) Interfere with, restrain or coerce professional employees or a board of education in the exercise of rights granted in this part;

(4) Engage in a strike;

(5) Urge, coerce or encourage others to engage in unlawful acts as defined in this part;

(6) Enter onto the school grounds for the purpose of contacting professional employees in such a manner and at such times as will interfere with the normal operations of the school; or

(7) Coerce or attempt to intimidate professional employees who choose not to join a professional employee organization.

(c)(1) A complaint of an unlawful act shall be filed with, or initiated by the board of education. If no reasonable resolution is reached between the parties, a complaint may be filed in the chancery court of the county where the local education agency is located.

(2) No complaint shall issue based upon any unlawful act occurring more than three (3) months prior to the filing of the complaint.

(3) The court is empowered to prevent any board of education or its agents, or organizations, associations, professional employees, or their agents, from engaging in any unlawful act.

(4) If, upon the preponderance of the evidence taken, the court is of the opinion that a party named in the complaint has engaged in or is engaging in any such unlawful act, then the court shall state its findings of fact, issue an order requiring the party to cease and desist from the unlawful act, and take affirmative action including resumption of collaborative conferencing or reinstatement of employees. The order may further require the party to make reports from time-to-time showing the extent to which it has complied with the order.

(5) If, upon the preponderance of the testimony taken, the court is not of the opinion that a party named in the complaint has engaged in or is engaging in any such unlawful act, then the court shall state its findings of fact and shall issue an order dismissing the complaint.

49-5-607. Strikes — Remedies.

(a)(1) If a strike occurs, the board of education may apply to the chancery court in the county to enjoin the strike. The application shall set forth the facts constituting the strike.

(2) If the court finds, after a hearing, that a strike has occurred, the court shall enjoin the employees from participating in the strike.

(b) When local boards of education have determined which employees have engaged in or participated in a strike, the employees may be subject to dismissal and, further, shall forfeit their claim to tenure status, if they have attained tenure, and shall revert to probationary status for the next five-year period. Any professional employee who engaged in, or participated in, a strike and who is not a tenured teacher may also be subject to dismissal.

(c) No penalty, forfeiture of rights or privileges or other sanction or fine imposed on a professional employees' organization, its officers or members,

as the result of a strike, shall be subject to collaborative conferencing by the organization and a board at any time.

49-5-608. Scope of conferencing.

(a) A local board of education shall be required to participate in collaborative conferencing with professional employees, or their designated representatives, if any, with respect to only those terms and conditions of employment that are specified in this section. Such terms and conditions include and are limited to the following:

(1) Salaries or wages;

(2) Grievance procedures;

(3) Insurance;

(4) Fringe benefits, but not to include pensions or retirement programs of the Tennessee consolidated retirement system or locally authorized early retirement incentives;

(5) Working conditions; except those working conditions which are prescribed by federal law, state law, private act, municipal charter or rules and regulations of the State Board of Education, the Department of Education or any other department or agency of state or local government;

(6) Leave; and

(7) Payroll deductions; except as provided in subsection (b).

(b) No other terms or conditions of employment shall be the subject of collaborative conferencing between the board of education and the professional employees or their representatives and no collaborative conferencing shall be conducted on the following subjects:

(1) Differentiated pay plans and other incentive compensation programs including stipends and associated benefits that are based on professional employee performance that exceeds expectations, or that aid in hiring and retaining highly qualified teachers for hard-to-staff schools and subject areas;

(2) Expenditure of grants or awards from federal, state or local governments and foundations or other private organizations that are expressly designated for specific purposes;

(3) Evaluation of professional employees pursuant to federal or state law or State Board of Education policy;

(4) Staffing decisions and State Board of Education or local board of education policies relating to innovative educational programs under § 49-1-207; innovative high school programs under Title 49,

Chapter 15; virtual education programs under Title 49, Chapter 16; and other programs for innovative schools or school districts that may be enacted by the general assembly;

(5) All personnel decisions concerning assignment of professional employees, including, but not limited to, filling of vacancies, assignments to specific schools, positions, professional duties, transfers within the system, layoffs, reductions in force, and recall. No agreement shall include provisions that require personnel decisions to be determined on the basis of tenure, seniority or length of service; and

(6) Payroll deductions for political activities.

(c) The director of schools shall be permitted to communicate with professional employees employed by the local board of education concerning any subject relevant to the operation of the school system, including the terms and conditions of professional service that are subject to collaborative conferencing, through any means, medium or format the director chooses.

49-5-609. Memorandum of Understanding.

(a) The scope of a memorandum shall extend to those matters of mutual agreement between the board of education and the professional employees; provided, that its scope shall not include proposals contrary to:

(1) Federal or state law or applicable municipal charter;

(2) Professional employee rights defined in this part; or

(3) Board of education rights contained in this title.

(b) If agreement is reached by the management personnel of the board of education and the representatives of its professional employees, they shall jointly prepare a proposed memorandum of understanding. The board of education may enter into the memorandum for a period not to exceed three (3) years. Any items included within the memorandum that require funding shall not be considered effective until such time as the body empowered to appropriate the funds has approved a budget that includes sufficient funding. If the amount of funds appropriated is less than the amount required to address the matters of collaborative conferencing, then the parties may continue to confer to reach agreement within the amount of funds appropriated.

(c) A memorandum of understanding shall be binding on the parties from the date of its approval by the board of education as an item on the agenda of a regular or special called board meeting or at a later effective date that is explicitly stated in the memorandum of understanding.

(d) Nothing in this act shall be construed to require collaborative conferencing, agreement on any terms and conditions of employment, or, if agreement has not been reached between the board of education and the

representatives of the professional employees, a memorandum of understanding. Absent an agreement and memorandum of understanding on terms and conditions specified for collaborative conferencing in this act, the board of education shall have the authority to address such terms and conditions through board policy.

SECTION 2. Tennessee Code Annotated, Section 49-5-510, is amended by deleting the language "and any locally negotiated agreement".

SECTION 3. Tennessee Code Annotated, Section 49-5-511(b)(3), is amended by deleting the language "and any locally negotiated agreement".

SECTION 4. Nothing in this act shall be construed to abridge or impair a contract or agreement governing terms and conditions of professional service entered into by a board of education and a recognized professional employees' organization under the Education Professional Negotiations Act before the effective date of this act. Any such contract or agreement shall remain in full force and effect until the expiration of the contract or agreement.

SECTION 5. Tennessee Code Annotated, Section 5-23-107(1), is amended by deleting the language "negotiated agreement" and by substituting instead the language "memorandum of understanding".

SECTION 6. Tennessee Code Annotated, Section 49-1-201(d)(2), is amended by deleting the language "agreements negotiated under the Education Professional Negotiations Act" and by substituting instead the language "memoranda of understanding under the Professional Educators Collaborative Conferencing Act".

SECTION 7. Tennessee Code Annotated, Section 49-1-207(g), is amended by deleting the subsection in its entirety.

SECTION 8. Tennessee Code Annotated, Section 49-1-614(d)(2), is amended by deleting the language:

, and the Education Professional Negotiations Act, compiled in Chapter 5, Part 6 of this title,

and by substituting instead the language:

, and the Education Professional Negotiations Act, compiled in Chapter 5, Part 6 of this title, prior to the effective date of this act,

SECTION 9. Tennessee Code Annotated, Section 49-2-301(b)(1)(EE), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(EE) Within the approved budget and consistent with existing state laws and board policies, employ, transfer, suspend, non-renew and dismiss all personnel, licensed or otherwise, except as provided in § 49-2-203(a)(1) and in Chapter 5, Part 5 of this title.

SECTION 10. Tennessee Code Annotated, Section 49-3-306(h), is amended by deleting the language "and in compliance with § 49-5-611".

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SECTION 11. Tennessee Code Annotated, Section 49-13-118, is amended by deleting the section in its entirety.

SECTION 12. Because Title 49, Chapter 5, Part 6, shall continue to be applicable to contracts or agreements governing terms and conditions of professional service that were negotiated and entered into by a board of education and a recognized professional employees' organization before the effective date of this act, the Code Commission is requested to place the Education Professional Negotiations Act together with an appropriate statement indicating its applicability in an appendix to Title 49 for the sole purpose of providing a readily available reference for those affected by such contracts or agreements until the time that all contracts or agreements negotiated under the act have expired.

SECTION 13. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 14. This act shall take effect upon becoming a law, the public welfare requiring it.

/s/ Senator Jack Johnson
/s/ Senator Dolores Gresham
Senator Andy Berke

/s/ Representative Debra Maggart
/s/ Representative Harry Brooks
Representative Lois DeBerry

Senator Johnson moved that the Conference Committee Report on **House Bill No. 130/Senate Bill No. 113** be adopted and made the action of the Senate, which motion prevailed by the following vote:

Ayes	19
Noes	12
Present, not voting . . .	1

Senators voting aye were: Beavers, Bell, Campfield, Crowe, Faulk, Gresham, Johnson, Kelsey, Ketron, McNally, Norris, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--19.

Senators voting no were: Barnes, Berke, Burks, Finney, Ford, Harper, Herron, Kyle, Marrero, Overbey, Stewart and Tate--12.

Senator present and not voting was: Henry--1.

A motion to reconsider was tabled.

MOTION

Senator Southerland moved that Rule 83 be suspended for the purpose of allowing the Committee on Energy and Environment to meet at the Well during the recess to discuss **Senate Joint Resolutions Nos. 321 and 328**; and **House Joint Resolutions Nos. 165, 350, 351 and 360**, which motion prevailed.

RECESS

Senator Norris moved the Senate stand in recess until 8:15 p.m., which motion prevailed.

CALL TO ORDER

The Senate was called to order by Mr. Speaker Ramsey.

ROLL CALL

The Speaker declared that a quorum was present.

On motion, the roll call was dispensed with.

STANDING COMMITTEE REPORTS

ENERGY AND ENVIRONMENT

MR. SPEAKER: Your Committee on Energy and Environment begs leave to report that we have carefully considered and recommend for passage: Senate Joint Resolutions Nos. 321 and 328; and House Joint Resolutions Nos. 165, 350, 351 and 360 with amendment.

SOUTHERLAND, Chairperson
May 20, 2011

The Speaker announced that he had referred Senate Joint Resolutions Nos. 321 and 328; and House Joint Resolutions Nos. 165, 350, 351 and 360 with amendment to the Committee on Calendar.

FINANCE, WAYS AND MEANS

MR. SPEAKER: Your Committee on Finance, Ways and Means begs leave to report that we have carefully considered and recommend for passage: Senate Bills Nos. 39 with amendment, 40, 64, 69, 77, 261, 267, 343, 409, 476, 541, 542, 546, 601, 605 with amendment, 633, 664, 690, 816 with amendment, 869 with amendment, 1028 with amendment, 1088 with amendment, 1100, 1161, 1666, 1684 with amendment, 1869, 1996, 2008 and 2114 with amendment; and House Joint Resolution No. 194.

MCNALLY, Chairperson
May 20, 2011

The Speaker announced that he had referred Senate Bills Nos. 39 with amendment, 40, 64, 69, 77, 261, 267, 343, 409, 476, 541, 542, 546, 601, 605 with amendment, 633, 664, 690, 816 with amendment, 869 with amendment, 1028 with amendment, 1088 with amendment, 1100, 1161, 1666, 1684 with amendment, 1869, 1996, 2008 and 2114 with amendment; and House Joint Resolution No. 194 to the Committee on Calendar.

NOTICES

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 113. The House acceded to the request of the Senate for the appointment of a Conference Committee. The Speaker appointed a Conference Committee composed of Representatives Maggart, Harry Brooks and Lois

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DeBerry to confer with a like committee from the Senate in open conference to resolve the differences between the Bodies on Senate Bill No. 113.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to request the return of Senate Bill No. 772, for further consideration.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 567, substituted for House Bill on same subject, amended, and passed by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 772, substituted for House Bill on same subject, amended, and passed by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 1239, substituted for House Bill on same subject, amended, and passed by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 266, substituted for House Bill on same subject, amended, and passed by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 256, substituted for House Bill on same subject, amended, and passed by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 1334, substituted for House Bill on same subject, amended, and passed by the House.

JOE MCCORD,
Chief Clerk.

MOTION

Senator Faulk moved that Rule 19 and Rule 38 be suspended for the purpose of making and considering Consent Calendar No. 3 consisting of the following resolutions: **Senate Joint Resolutions Nos. 321 and 328**; and **House Joint Resolutions Nos. 165, 350 and 351**, which motion prevailed.

CONSENT CALENDAR NO. 3

Senate Joint Resolution No. 321 -- General Assembly, Confirmation of Appointment -- Jack E. Holder, State Forestry Commission.

Senate Joint Resolution No. 328 -- General Assembly, Confirmation of Appointment -- Franklin J. "Jim" Bledsoe, Tennessee Wildlife Resources Commission.

House Joint Resolution No. 165 -- General Assembly, Statement of Intent or Position -- Expresses support for wood products sourced from Tennessee's forests.

House Joint Resolution No. 350 -- General Assembly, Confirmation of Appointment -- W. Harold Cannon, Jr., Tennessee Wildlife Resources Commission.

House Joint Resolution No. 351 -- General Assembly, Confirmation of Appointment -- Robert S. Qualman, State Forestry Commission.

Senator Faulk moved that all Senate Joint Resolutions be adopted; and all House Joint Resolutions be concurred in, which motion prevailed by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Gresham, Harper, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris,

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Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

MOTION

Senator Faulk moved that Rule 19 be suspended for the purpose of considering Message Calendar No. 2 next, which motion prevailed.

MESSAGE CALENDAR NO. 2

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 256 -- General Assembly -- As introduced, requires TBI to conduct background investigations for persons appointed by the Speaker of the Senate or the Speaker of the House. Amends TCA Title 38, Chapter 6.

HOUSE AMENDMENT NO. 1

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. Tennessee Code Annotated, Section 38-6-106, is amended by adding the following language as a new subsection:

(f) The authority granted by this section to the Speaker of the Senate and Speaker of the House of Representatives to request the Tennessee Bureau of Investigation to conduct background investigations is limited to fifteen (15) requests per calendar year per speaker.

Senator Bell moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 256**, which motion prevailed by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Gresham, Harper, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--30.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 266 -- Motor Vehicles, Titling and Registration -- As introduced, requires notice be given to Department of Revenue when title to a motor vehicle is transferred; relieves responsibility of seller of a motor vehicle for actions taken by purchasers of such motor vehicle. Amends TCA Title 55, Chapter 3.

HOUSE AMENDMENT NO. 3

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 55-3-211, is amended by deleting the language "As used in this section, §§ 55-3-207 – 55-3-209 and 55-3-212," and by substituting instead the language "As used in this part,".

SECTION 2. Tennessee Code Annotated, Section 55-3-211, is further amended by adding the following language as a new, appropriately designated subdivision:

() "Methamphetamine vehicle" means any motor vehicle subject to registration and certificate of title provisions that has been impounded by a law enforcement agency based on a charge of manufacture of methamphetamine on or within the vehicle and determined to be contaminated pursuant to the standards developed pursuant to Title 68, Chapter 212, Part 5, and for which the department has received a notice of motor vehicle impoundment for manufacture of methamphetamine pursuant to § 55-3-213. Disclosure that a motor vehicle has become a methamphetamine vehicle shall be made upon the department's receipt of such notice by issuance of a new certificate of title conspicuously labeled with the language "Methamphetamine Vehicle" across the front. Upon any subsequent transfer of ownership, the next certificate of title issued after the transfer shall be conspicuously labeled with the language "Methamphetamine Vehicle" across the front;

SECTION 3. Tennessee Code Annotated, Title 55, Chapter 3, Part 2, is amended by adding the following language as a new, appropriately designated section:

55-3-213.

(a) Any law enforcement agency that impounds a motor vehicle due to the manufacture of methamphetamine on or within the motor vehicle, determined to be contaminated pursuant to the rules of the Department of Environment and Conservation, shall submit a notice of motor vehicle impoundment for manufacture of methamphetamine to the Department of Revenue within thirty (30) days of such impoundment.

(b) A notice in a form substantially as follows is sufficient to comply with subsection (a):

**Notice of Motor Vehicle Impoundment for Manufacture of
Methamphetamine**

Notice is hereby given that a motor vehicle has been impounded due to a charge of manufacture of methamphetamine on or within the vehicle. Such motor vehicle was seized at the location described below on _____.

(date)

This motor vehicle has been impounded by
_____ pursuant to

(name of law enforcement agency)

Tennessee Code Annotated, § _____.

Address of Motor Vehicle Seizure:

Name of Motor Vehicle Owner or Owners:

Registered Address:

Apartment or Unit Number (if applicable):

VIN:

Year, Make, Model and Color:

Name of Person and Agency Giving Notice:

Signature of Person Giving Notice:

Title/Position:

Date:

_____.

SECTION 4. The Commissioner of Revenue is authorized to promulgate rules to effectuate the purposes of this act, including, but not limited to, rules to provide a motor vehicle owner an opportunity for a hearing on the issue of whether the certificate of title for such vehicle should be labeled, or should continue to be labeled, as a methamphetamine vehicle. All such rules shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 5. This act shall take effect July 1, 2011, the public welfare requiring it and shall apply to all applicable offenses committed on or after such date.

Senator Tracy moved that the Senate concur in House Amendment No. 3 to **Senate Bill No. 266**, which motion prevailed by the following vote:

Ayes 28
Noes 0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Gresham, Harper, Henry, Herron, Johnson, Kelsey, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Woodson, Yager and Mr. Speaker Ramsey--28.

A motion to reconsider was tabled.

HOUSE AMENDMENT NO. 4

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 55-3-211, is amended by deleting the language "As used in this section, §§ 55-3-207 – 55-3-209 and 55-3-212", and by substituting instead the language "As used in this part,".

SECTION 2. Tennessee Code Annotated, Section 55-3-211, is further amended by adding the following language as a new, appropriately designated subdivision:

() "Methamphetamine vehicle" means any motor vehicle subject to registration and certificate of title provisions that has been impounded by a law enforcement agency based on a charge of manufacture of methamphetamine on or within the vehicle and determined to be contaminated pursuant to the standards developed pursuant to Title 68, Chapter 212, Part 5, and for which the department has received a notice of motor vehicle impoundment for manufacture of methamphetamine pursuant to § 55-3-213. Disclosure that a motor vehicle has become a methamphetamine vehicle shall be made upon the department's receipt of such notice by issuance of a new certificate of title conspicuously labeled with the language "Methamphetamine Vehicle" across the front. Upon any subsequent transfer of ownership, the next certificate of title issued after the transfer shall be conspicuously labeled with the language "Methamphetamine Vehicle" across the front;

SECTION 3. Tennessee Code Annotated, Title 55, Chapter 3, Part 2, is amended by adding the following language as a new, appropriately designated section:

55-3-213.

(a) Any law enforcement agency that impounds a motor vehicle due to the manufacture of methamphetamine on or within the motor vehicle, determined to be contaminated pursuant to the standards developed pursuant to Title 68, Chapter 212, Part 5, shall submit a notice of motor vehicle impoundment for manufacture of methamphetamine to the Department of Revenue within thirty (30) days of such impoundment.

(b) A notice in a form substantially as follows is sufficient to comply with subsection (a):

Notice of Motor Vehicle Impoundment for Manufacture of
Methamphetamine

Notice is hereby given that a motor vehicle has been impounded due to a charge of manufacture of methamphetamine on or within the vehicle. Such motor vehicle was seized at the location described below on _____.
(date)

This motor vehicle has been impounded by _____ pursuant to
(name of law enforcement agency)

Tennessee Code Annotated, § _____.

Address of Motor Vehicle Seizure:

Name of Motor Vehicle Owner or Owners:

Registered Address:

Apartment or Unit Number (if applicable):

VIN:

Year, Make, Model and Color:

Name of Person and Agency Giving Notice:

Signature of Person Giving Notice:

Title/Position:

Date:

_____.

SECTION 4. The Commissioner of Revenue is authorized to promulgate rules to effectuate the purposes of this act, including, but not limited to, rules to provide a motor vehicle owner an opportunity for a hearing on the issue of whether the certificate of title for such vehicle should be labeled, or should continue to be labeled, as a methamphetamine vehicle. All such rules shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 5. This act shall take effect July 1, 2011, the public welfare requiring it and shall apply to all applicable offenses committed on or after such date.

Senator Tracy moved that the Senate concur in House Amendment No. 4 to **Senate Bill No. 266**, which motion prevailed by the following vote:

Ayes	29
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Gresham, Harper, Henry, Herron, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--29.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 567 -- Domestic Violence -- As introduced, authorizes the use of global positioning monitoring system as a condition of bail in domestic violence cases; requires defendant to pay for the use of such systems if able. Amends TCA Title 36, Chapter 3, Part 6; Title 39, Chapter 13, Part 1; Section 39-17-315 and Title 40, Chapter 11, Part 1.

HOUSE AMENDMENT NO. 2

AMEND by deleting all language following the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 40-11-150(b), is amended by adding the following as a new subdivision (6) and redesignating the subsequent subsections accordingly:

(6) In any county having a population of more than 850,000 according to the 2000 federal census or any subsequent federal census, an order requiring the defendant to carry or wear a global positioning monitoring system device and, if able, pay the costs associated with operating that device and electronic receptor device provided to the victim, pursuant to the pilot project created by § 40-11-152;

SECTION 2. Tennessee Code Annotated, Title 40, Chapter 11, Part 1, is amended by adding the following as a new section:

40-11-152.

(a) For the purposes of this part:

(1) "Global positioning monitoring system" means a system that electronically determines and reports the location of an individual through the use of a transmitter or similar device carried or worn by the individual that transmits latitude and longitude data to a monitoring entity through global positioning satellite technology; and

(2) "Global positioning monitoring system" does not include a system that contains or operates global positioning system technology, radio frequency identification technology or any other similar technology that is implanted in or otherwise invades or violates the individual's body.

(b) In any county having a population of more than 850,000 in the 2000 federal census or any subsequent federal census, there is created a two-year pilot program to address problems of recurring domestic violence. The administrative office of the courts (AOC) shall review and evaluate the pilot program at the end of the two (2) years in which the program is conducted. The AOC shall report its findings and conclusions as to the effectiveness of the pilot program in preventing instances of domestic violence. The report shall include input from interested parties including, but not limited to, the district attorney general, the office of public defenders, the sheriff's department, the city police department, the domestic violence council, and the domestic violence court of each county to which this section applies. The report shall be submitted to the Judiciary Committees of the House or Representatives and Senate within six (6) months of the end of the pilot program.

(c) Pursuant to § 40-11-150, a magistrate may order any defendant who is arrested for the offense of stalking, aggravated stalking or especially aggravated stalking, as defined in § 39-17-315, any criminal offense defined in Title 39, Chapter 13, in which the alleged victim of the offense is a victim as defined in § 36-3-601(5), (10) or (11), or is in violation of an order of protection as authorized by Title 36, Chapter 3, Part 6, to do the following as a condition of release or bail:

(1) Carry or wear a global positioning monitoring system device and, except as provided by subsection (i), pay the costs associated with operating that system in relation to the defendant; or

(2) If the alleged victim of the offense consents after receiving the information described by subsection (e) and, except as provided by subsection (i), pay the costs associated with providing the victim with an electronic receptor device that:

(A) Is capable of receiving the global positioning monitoring system information from the device carried or worn by the defendant; and

(B) Notifies the victim if the defendant is at or near a location that the defendant has been ordered to refrain from going to or near under § 40-11-150.

(d) Before imposing a condition described by subsection (c), the magistrate must afford an alleged victim an opportunity to provide the magistrate with a list of areas from which the victim would like the defendant excluded and shall consider the victim's request, if any, in determining the locations the defendant will be ordered to refrain from going to or near. If the magistrate imposes a condition described by subsection (c), the magistrate shall specifically describe the locations that the defendant has been ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations.

(e) Before imposing a condition described by subdivision (c)(2), the magistrate must provide to an alleged victim information regarding:

(1) The victim's right to participate in a global positioning monitoring system or to refuse to participate in that system and the procedure for requesting that the magistrate terminate the victim's participation;

(2) The manner in which the global positioning monitoring system technology functions and the risks and limitations of that technology, and the extent to which the system will track and record the victim's location and movements;

(3) Any locations that the defendant is ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations;

(4) Any sanctions that the magistrate may impose on the defendant for violating a condition of bond imposed under this section;

(5) The procedure that the victim is to follow, and support services available to assist the victim, if the defendant violates a condition of bond or if the global positioning monitoring system equipment fails;

(6) Community services available to assist the victim in obtaining shelter, counseling, education, child care, legal representation, and other assistance available to address the consequences of domestic violence; and

(7) The fact that the victim's communications with the magistrate concerning the global positioning monitoring system and any restrictions to be imposed on the defendant's movements are not confidential.

(f) In addition to the information described by subsection (e), the magistrate shall provide to an alleged victim who participates in a global positioning monitoring system under this section the name and telephone number of an appropriate person employed by a local law enforcement agency who the victim may call to request immediate assistance if the defendant violates a condition of bond imposed under this section.

(g) In determining whether to order a defendant's participation in a global positioning monitoring system under this section, the magistrate shall consider the likelihood that the defendant's participation will deter the defendant from seeking to kill, physically injure, stalk, or otherwise threaten the alleged victim before trial.

(h) An alleged victim may request that the magistrate terminate the victim's participation in a global positioning monitoring system at any time. The magistrate may not impose sanctions on the victim for requesting termination of the victim's participation in or refusing to participate in a global positioning monitoring system under this section.

(i) The magistrate may allow a defendant to perform community service in lieu of paying the costs required by subsection (c) if the magistrate determines that the defendant is indigent.

(j) The magistrate that imposes a condition described by subsection (c) shall order the entity that operates the global positioning monitoring system to notify the magistrate and the appropriate local law enforcement agency if a defendant violates a condition of bond imposed under this section.

(k) This section shall not limit the authority of the magistrate to impose any other reasonable conditions of bond or enter any orders of protection under other applicable statutes.

SECTION 3. This act shall take effect July 1, 2011, the public welfare requiring it, and shall apply to all arrests on or after such date.

Senator Berke moved that the Senate nonconcur in House Amendment No. 2 to **Senate Bill No. 567**, which motion prevailed.

HOUSE AMENDMENT NO. 3

AMEND by adding the following as a new subsection to the amendatory language of Section 2:

() The global positioning monitoring of any defendant ordered pursuant to this section shall be provided by the county or municipality in which the court ordering the monitoring is located and shall not be provided by the board of probation and parole.

Senator Berke moved that the Senate nonconcur in House Amendment No. 3 to **Senate Bill No. 567**, which motion prevailed.

Senator Ketron moved that **Senate Bill No. 772** be placed at the heel of Message Calendar No. 2 for today, which motion prevailed.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 1239 -- Regional Authorities and Special Districts -- As introduced, requires advisory committee, if appointed, to East Tennessee regional agribusiness marketing authority to consult with and advise the board on at least a bi-annual basis. Amends TCA Title 64.

HOUSE AMENDMENT NO. 2

AMEND by deleting the language "accountings" in Section 4(c)(13) and substituting instead the language "accountants".

Senator Southerland moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 1239**, which motion prevailed by the following vote:

Ayes	29
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Gresham, Harper, Henry, Herron, Johnson, Kelsey, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--29.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 1334 -- Industrial Development -- As introduced, authorizes industrial development corporations located in municipalities in which urban brownfield redevelopment projects are located to prepare and submit economic impact plans for the development of such projects. Amends TCA Title 7, Chapter 53.

HOUSE AMENDMENT NO. 1

AMEND by substituting the language "five (5) acres" for the language "twenty (20) acres" in Section 7-53-3__(f)(2) of Section 1 of the bill as introduced.

AND FURTHER AMEND Section 1 of the bill, as introduced, by deleting Section 7-53-3__(f)(5) and substituting the following:

(5) "Redevelopment zone" means either an area designated as of January 1, 2009, as a renewal community by the federal Department of Housing and Urban Development or an area designated as of January 1, 2009, as a low income community for purposes of the federal New Markets Tax Credits program. A redevelopment zone must also be located in a county having a population of three hundred thousand (300,000) or more according to the 2000 federal census or any subsequent federal census.

AND FURTHER AMEND Section 1 of the bill as introduced by deleting the second sentence of Section 7-53-3__(f)(6) and substituting the following:

The parcel or parcels must be located in a redevelopment zone and must either contain at least one (1) brownfield site or contain a site of at least ten (10) acres that has remained vacant or substantially unoccupied for at least five (5) years and, at any time within twenty (20) years prior to the effective date of this act, included a manufacturing, industrial, distribution or retail facility containing at least one million (1,000,000) square feet.

Senator Berke moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 1334**, which motion prevailed by the following vote:

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Ayes 30
Noes 0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Gresham, Harper, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--30.

A motion to reconsider was tabled.

HOUSE AMENDMENT NO. 2

AMEND by deleting the phrase "three hundred thousand (300,000)" from the second sentence of the second amendatory provision of House State and Local Government Committee Amendment Number 1 (drafting code 00664396) and substituting the phrase "eighty thousand (80,000)" in its place.

AND FURTHER AMEND by deleting the language "renewal communities within the state" from the first sentence of Section 7-53-3__ (a) of the bill as introduced and by substituting instead the language "economically disadvantaged areas within large and mid-size counties within the state".

Senator Berke moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 1334**, which motion prevailed by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Barnes, Beavers, Berke, Burks, Campfield, Crowe, Faulk, Finney, Gresham, Harper, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--29.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 1445 -- Education, Higher -- As introduced, allows state agencies to provide free and discounted services to the Tennessee Intercollegiate State Legislature Foundation. Amends TCA Title 49, Chapter 3, Part 20.

HOUSE AMENDMENT NO. 2

AMEND by adding the following language between the word "research" and the punctuation "." in the amendatory language of Section 1 of the bill:

; provided, however, that any cost associated with the operation of the chambers of the Senate and the House of Representatives shall be borne by the Tennessee Intercollegiate State Legislature Foundation.

Senator Overbey moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 1445**, which motion prevailed by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Gresham, Harper, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Woodson, Yager and Mr. Speaker Ramsey--30.

A motion to reconsider was tabled.

Senator Ketron moved that **Senate Bill No. 772** be returned to the House, which motion prevailed.

CALENDAR NO. 3

Senate Bill No. 940 -- Civil Procedure -- As introduced, establishes a framework for the consideration of evidence offered during all stages of the proceedings in employment discrimination and retaliation cases. Amends TCA Title 4 and Title 50.

On motion, Senate Bill No. 940 was made to conform with **House Bill No. 1641**.

On motion, House Bill No. 1641, on same subject, was substituted for Senate Bill No. 940.

Senator Overbey declared Rule 13 on **Senate Bill No. 940**.

Senator Beavers moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 4-21-311, is amended by the addition thereto of a new subsection (e) which shall read as follows:

(e) In any civil cause of action alleging a violation of this chapter or of Tennessee Code Annotated, Section 8-50-103, the plaintiff shall have the burden of establishing a prima facie case of intentional discrimination or retaliation. If the plaintiff satisfies this burden, the burden shall then be on the defendant to produce evidence that one or more legitimate, nondiscriminatory reasons existed for the challenged employment action. The burden on the defendant is one of production and not persuasion. If the defendant produces such evidence, the presumption of discrimination or retaliation raised by the plaintiff's prima facie case is rebutted, and the burden shifts to the plaintiff to demonstrate that the reason given by the defendant was not the true reason for the challenged employment action and that the stated reason was a pretext for illegal discrimination or retaliation. The foregoing allocations of burdens of proof shall apply at all stages of the proceedings, including motions for summary judgment. The plaintiff at all times retains the burden of persuading the trier of fact that he or she has been the victim of intentional discrimination or retaliation.

SECTION 2. Tennessee Code Annotated, Section 50-1-304, is amended by the addition thereto of new subsection (g) which shall read as follows:

(g) In any civil cause of action for retaliatory discharge brought pursuant to this section, or in any civil cause of action alleging retaliation for refusing to participate in or remain silent about illegal activities under Tennessee common law, the plaintiff shall have the burden of establishing a prima facie case of retaliatory discharge. If the plaintiff satisfies this burden, the burden shall then be on the defendant to produce evidence that one or more legitimate, nondiscriminatory reasons existed for the plaintiff's discharge. The burden on the defendant is one of production and not persuasion. If the defendant produces such evidence, the presumption of discrimination raised by the plaintiff's prima facie case is rebutted, and the burden shifts to the plaintiff to demonstrate that the reason given by the defendant was not the true reason for the plaintiff's discharge and that the stated reason was a pretext for unlawful retaliation. The foregoing allocations of burdens of proof shall apply at all stages of the proceedings, including motions for summary judgment. The plaintiff at all times retains the burden of persuading the trier of fact that the plaintiff has been the victim of unlawful retaliation.

SECTION 3. Tennessee Code Annotated, Title 50, Chapter 1, is amended by adding the following as a new Part 7:

50-1-701. In any civil cause of action alleging wrongful discharge in violation of Tennessee public policy, including, but not limited to, a discharge in retaliation for the exercise of rights under the Tennessee workers' compensation law, the plaintiff shall have the burden of establishing a prima facie case of retaliatory discharge. If the plaintiff satisfies this burden, the burden shall then be on the defendant to produce evidence that one or more legitimate, nondiscriminatory reasons existed for the plaintiff's discharge. The burden on the defendant is one of production and not persuasion. If the defendant produces such evidence, the presumption of discrimination raised by the plaintiff's prima facie case is rebutted, and the burden shifts to the plaintiff to demonstrate that the reason given by the defendant was not the true reason for the plaintiff's discharge and that the stated reason was a pretext for unlawful retaliation. The foregoing allocations of burdens of proof shall apply at all stages of the proceedings, including motions for summary judgment. The plaintiff at all times retains the burden of persuading the trier of fact that the plaintiff has been the victim of unlawful retaliation or wrongful discharge.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it and shall apply to all causes of action accruing on or after such effective date.

Senator Kelsey moved that **House Bill No. 1641** be moved five places down on Calendar No. 3 for today, which motion prevailed.

Senate Bill No. 1523 -- Schools, Charter -- As introduced, allows any student in the charter school's jurisdiction to attend the school; authorizes the achievement school district to approve applications to create charter schools; removes the cap on the number of charter schools in the state. Amends TCA Title 49, Chapter 13.

On motion, Senate Bill No. 1523 was made to conform with **House Bill No. 1989**.

On motion, House Bill No. 1989, on same subject, was substituted for Senate Bill No. 1523.

On motion of Senator Gresham, Amendment No. 1 was withdrawn.

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On motion of Senator McNally, Amendment No. 2 was withdrawn.

Thereupon, **House Bill No. 1989** passed its third and final consideration by the following vote:

Ayes	22
Noes	9

Senators voting aye were: Beavers, Bell, Campfield, Crowe, Faulk, Gresham, Henry, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--22.

Senators voting no were: Barnes, Berke, Burks, Finney, Harper, Herron, Kyle, Marrero and Stewart--9.

A motion to reconsider was tabled.

MOTION

Senator Crowe moved that Rules 32, 33 and 37 be suspended for the introduction and immediate consideration of **Senate Joint Resolution No. 467**, out of order, which motion prevailed.

INTRODUCTION OF RESOLUTION

Senate Joint Resolution No. 467 by Senator Crowe.
Memorials, Recognition -- Doyle Lawson & Quicksilver.

On motion of Senator Crowe, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Joint Resolution No. 467** was adopted.

A motion to reconsider was tabled.

CALENDAR NO. 3

Senate Bill No. 1550 -- Workers' Compensation -- As introduced, clarifies that the general contractor of a commercial construction project shall select the three individual construction services providers who may be exempt from workers' compensation coverage while working on the commercial construction project; allows five instead of three corporate officers who are engaged in the construction industry to apply for an exemption from the requirements that they be covered by workers' compensation insurance. Amends TCA Title 50 and Title 56.

Senator Johnson moved that Amendment No. 1 be placed at the heel of the Amendments, which motion prevailed.

Senator Johnson moved that Amendment No. 2 be placed at the heel of the Amendments, which motion prevailed.

Senator McNally moved to amend as follows:

AMENDMENT NO. 3

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 50-6-102(10)(E), is amended by deleting the subdivision in its entirety and substituting instead the following:

(E) "Employee" does not include a construction services provider, as defined in § 50-6-901, if the construction services provider is:

(i) Listed on the registry established pursuant to Part 9 of this chapter as having a workers' compensation exemption and is working in the service of the business entity through which the provider obtained such an exemption;

(ii) Not covered under a policy of workers' compensation insurance maintained by the person or entity for whom the provider is providing services; and

(iii) Rendering services on a construction project that:

(A) Is not a commercial construction project, as defined in § 50-6-901; or

(B) Is a commercial construction project, as defined in § 50-6-901, and the general contractor for whom the construction services provider renders construction services complies with § 50-6-914(b)(2).

SECTION 2. Tennessee Code Annotated, Section 50-6-103(a), is amended by deleting the language "any employee who is a corporate officer of the employer" and substituting instead the language "any person who has an exemption pursuant to § 50-6-104 or Part 9 of this chapter".

SECTION 3. Tennessee Code Annotated, Section 50-6-901(8), is amended by deleting the subdivision in its entirety and substituting instead the following:

(8) "Engaged in the construction industry" means any person or entity assigned to the contracting group as those classifications are designated by the rate service organization designated by the Commissioner of Commerce and Insurance as provided in § 56-5-320; provided, where more than one (1) classification applies, the governing classification, as that term is defined by the rate service organization designated by the Commissioner of Commerce and Insurance as provided in § 56-5-320, shall be used to determine whether the person or entity is engaged in the construction industry;

SECTION 4. Tennessee Code Annotated, Section 50-6-902(b), is amended by deleting subdivisions (4) and (5) and by substituting instead the following:

(4) Is a construction services provider performing work directly for the owner of the property; provided, however, that this subdivision (4) shall not apply to a construction services provider who acts as a general or intermediate contractor and who subsequently subcontracts any of the work contracted to be performed on behalf of the owner;

(5) Is a construction services provider building a dwelling or other structure, or performing maintenance, repairs, or making additions to structures, on the construction service provider's own property; or

SECTION 5. Tennessee Code Annotated, Section 50-6-903, is amended by deleting the section in its entirety and substituting instead the following:

(a) Any construction services provider who meets one (1) of the following criteria may apply for an exemption from § 50-6-902(a):

(1) An officer of a corporation who is engaged in the construction industry; provided, that no more than five (5) officers of one (1) corporation shall be eligible for an exemption;

(2) A member of a limited liability company who is engaged in the construction industry if such member owns at least twenty percent (20%) of such company;

(3) A partner in a limited partnership, limited liability partnership or a general partnership who is engaged in the construction industry if such partner owns at least twenty percent (20%) of such partnership;

(4) A sole proprietor engaged in the construction industry; or

(5) An owner of any business entity listed in subdivisions (1)-(3) that is family-owned; provided, no more than five (5) owners of one (1) family-owned business may be exempt from § 50-6-902(a).

(b) A construction services provider may be eligible for and may utilize multiple exemptions if the construction services provider meets the requirements set out in subsection (a) for each such exemption and complies with § 50-6-904 for each such exemption in which the construction services provider seeks to obtain; provided, however, a construction services provider applying for a second or subsequent exemption shall not be required to pay the fees set out in § 50-6-912(a)(1) and (a)(2), but shall instead pay the fee set out in § 50-6-912(a)() for each subsequent workers' compensation exemption registration and shall pay the fee set out in § 50-6-912(a)() for each subsequent registration renewal.

SECTION 6. Tennessee Code Annotated, Section 50-6-908(b)(1), is amended by deleting the language "may be revoked" and substituting instead the language "shall be revoked".

SECTION 7. Tennessee Code Annotated, Section 50-6-908(b)(1)(A), is amended by deleting the subdivision in its entirety and substituting instead the following:

(A) Notification from the board that the board has revoked or suspended any license issued to the construction services provider by the board, including a license issued to a business entity through which the construction services provider obtained such an exemption. For purposes of this subdivision (b)(1)(A), if a construction services provider's license is revoked, whether or not such license is in the provider's individual name or in the name of a business entity through which the provider obtained an exemption, then any exemption obtained through such business entity shall be revoked;

SECTION 8. Tennessee Code Annotated, Section 50-6-908(b)(1)(B), is amended by deleting the subdivision in its entirety and substituting instead the following:

(B) Notification from the department of any violations of § 50-6-412 by the construction services provider, including any violation against a business entity through which the construction services provider obtained such an exemption. For purposes of this subdivision (b)(1)(B), if a construction services provider has violated § 50-6-412, whether or not such violation was committed by the individual or a business entity through which the provider obtained an exemption, then any exemption obtained through such business entity shall be revoked and all exemptions in the provider's name shall be subject to revocation;

SECTION 9. Tennessee Code Annotated, Section 50-6-910, is amended by deleting the section in its entirety and substituting instead the following:

(a) Any action to recover damages for injury, as defined by § 50-6-102, by a construction services provider shall proceed as at common law, and the defendant in the suit may make use of all common law defenses if, at the time of the injury, the construction services provider was:

(1) Listed on the registry as having a workers' compensation exemption and working in the service of a business entity through which the construction services provider obtained such an exemption;

(2) Not covered under a policy of workers' compensation insurance maintained by the person or entity for whom the provider was providing services at the time of such injury; and

(3) Eligible for an exemption pursuant to § 50-6-914(b)(2), if such eligibility requirements apply, at the time of such injury.

(b) Any construction services provider proceeding as at common law pursuant to subsection (a) shall forego the right to sue to establish or reestablish workers' compensation coverage.

SECTION 10. Tennessee Code Annotated, Section 50-6-912(a), is amended by adding the following new, appropriately designated subdivisions:

() The issuance of a second or subsequent construction services provider workers' compensation exemption registration..... \$20 per registration

() The filing of a second or subsequent construction services provider workers' compensation exemption renewal..... \$20 per renewal

SECTION 11. Tennessee Code Annotated, Section 50-6-914(b)(2), is amended by deleting the subdivision in its entirety and substituting instead the following:

(2)(A) No more than three (3) construction services providers performing direct labor on a commercial construction project may be exempt from § 50-6-902(a).

(B) For purposes of subdivision (b)(2)(A), the three (3) construction services providers shall be selected by the general contractor. The limit of three (3) set out in subdivision (b)(2)(A) shall be three (3) individuals listed on the registry as having a workers' compensation exemption and working in the service of a business entity through which the construction services provider obtained such an exemption.

(C) If a general contractor allows a construction services provider to provide services on a commercial construction project while such provider is utilizing an exemption pursuant to this part, the general contractor shall:

(i) Notify each such construction services provider in writing that the provider has been chosen by the general contractor as one of the three (3) construction services providers performing direct labor who may be exempt from § 50-6-902(a); and

(ii) Maintain a record identifying each such construction services provider. The general contractor shall make the record maintained pursuant to this subdivision (b)(2)(C)(ii) available for inspection upon request by the general contractor's insurance provider, the department, and the Department of Commerce and Insurance.

SECTION 12. Tennessee Code Annotated, Section 50-6-921, is amended by deleting the language "under current law" and substituting instead the language "prior to March 1, 2011".

SECTION 13. If any policyholder chooses to cancel a policy of insurance as a result of obtaining an exemption pursuant to this act and cancels prior to February 1, 2012, then the policy of insurance shall be canceled as if the insured were retiring from the business in which the policy of insurance was required.

SECTION 14. For purposes of the secretary of state making necessary provisions for the implementation of this act, this act shall take effect upon becoming law; for all other purposes, this act shall take effect October 1, 2011, the public welfare requiring it.

On motion, Amendment No. 3 was adopted.

On motion of Senator Johnson, Amendment No. 1 was withdrawn.

On motion of Senator Johnson, Amendment No. 2 was withdrawn.

Thereupon, **Senate Bill No. 1550**, as amended, passed its third and final consideration by the following vote:

Ayes	29
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Gresham, Harper, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally,

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Overbey, Roberts, Southerland, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--29.

A motion to reconsider was tabled.

Senate Bill No. 1426 -- Education -- As introduced, expands the authority of LEAs to include implementation of programs that identify students at risk for Type II diabetes. Amends TCA Title 49.

On motion, Senate Bill No. 1426 was made to conform with **House Bill No. 1956**.

On motion, House Bill No. 1956, on same subject, was substituted for Senate Bill No. 1426.

On motion of Senator Gresham, Amendment No. 1 was withdrawn.

On motion of Senator McNally, Amendment No. 2 was withdrawn.

Thereupon, **House Bill No. 1956** passed its third and final consideration by the following vote:

Ayes	21
Noes	9

Senators voting aye were: Beavers, Bell, Campfield, Crowe, Faulk, Gresham, Henry, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--21.

Senators voting no were: Barnes, Berke, Burks, Finney, Harper, Herron, Kyle, Marrero and Stewart--9.

A motion to reconsider was tabled.

Senate Bill No. 1648 -- Board of Regents -- As introduced, removes an obsolete provision of the code that provides that the immediate past Commissioner of Education as of July 1, 1972, will serve until 2001 on the board of regents. Amends TCA Title 49.

On motion, Senate Bill No. 1648 was made to conform with **House Bill No. 1951**.

On motion, House Bill No. 1951, on same subject, was substituted for Senate Bill No. 1648.

On motion of Senator Gresham, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 1951** passed its third and final consideration by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Gresham, Harper, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

FURTHER ACTION ON HOUSE BILL NO. 1358

Thereupon, **House Bill No. 1358** passed its third and final consideration by the following vote:

Ayes	19
Noes	9

Senators voting aye were: Beavers, Bell, Burks, Campfield, Gresham, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--19.

Senators voting no were: Barnes, Berke, Faulk, Finney, Harper, Henry, Herron, Marrero and Tate--9.

A motion to reconsider was tabled.

**STATEMENT OF SENATOR BRIAN KELSEY
PURSUANT TO RULE 61**

May 20, 2011

Senator Kelsey Rule 61 Explanation of Vote
in favor of passage of House Bill 1358 on third consideration

The bill changes the Tennessee Supreme Court's non-unanimous interpretation of Rule 56 of the Tennessee Rules of Civil Procedure (TRCP) set forth in *Hannan v. Alltel Publishing Co.*, 270 S.W.3d 1 (Tenn. 2008) because that interpretation establishes public policy with which the Legislature disagrees.

Summary judgment is a device used during civil litigation to promptly and expeditiously dispose of a case without a trial. In Tennessee courts, summary judgment is governed by Rule 56 of the TRCP, which provides that summary judgment shall be granted if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is "no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law". The advisory committee comment to Rule 56 states that "[a] majority of the states have adopted procedures similar to those contained in this Rule, which follows the Federal Rule". The bill does not change the text of Rule 56 or this standard in any way.

TRCP 56 is modeled on Rule 56 of the Federal Rules of Civil Procedure, which provides that "[t]he court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law".

The Tennessee and federal rules do not provide explicit instructions on how to determine whether there is no genuine issue of material fact and that a party is entitled to judgment as a matter of law. Courts developed a summary judgment burden of production analysis to assist in making that determination. The moving party has the burden of showing that summary judgment is proper, even when the moving party does not bear the burden of proof at trial. If the moving party does not meet its burden, summary judgment is not granted. If the moving party meets its burden, the nonmoving party must show a dispute of material fact or that the moving party is not entitled to judgment as a matter of law to avoid summary judgment.

The United States Supreme Court in *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986), set forth the two methods by which a moving party who does not bear the burden of proof at trial may shift the burden of production to the nonmoving party. They were best articulated in Justice Brennan's dissent: (1) "the moving party may submit affirmative evidence that negates an essential element of the nonmoving party's claim", or (2) "the moving party may demonstrate to the Court that the nonmoving party's evidence is insufficient to establish an essential element of the nonmoving party's claim". *Celotex*, 477 U.S. at 331. This is the standard applied in federal courts today, including federal courts in Tennessee, and is the standard set forth in the bill.

In *Byrd v. Hall*, 847 S.W.2d 208 (Tenn. 1993), the Tennessee Supreme Court stated that the Tennessee and federal rules for summary judgment were "virtually identical" and that federal cases were helpful in interpreting Rule 56. The Tennessee Supreme Court cited to Justice Brennan's formulation in *Celotex* in holding that the moving party could meet its burden of production by either (1) affirmatively negating an essential element of the nonmoving party's claim or (2) establishing an affirmative defense. Even though the language setting forth the burden shifting analysis in *Byrd* differed from the language of *Celotex*, Tennessee courts relied on the "virtually identical" language to apply the *Celotex* standard until the Supreme Court issued its opinion in *Hannan v. Alltel Publishing Co.*, 270 S.W.3d 1 (Tenn. 2008).

The ability of a party to obtain summary judgment by establishing an affirmative defense is not abrogated or affected by this bill because the bill, as amended, applies only to the moving party who does not bear the burden of proof at trial. A party establishing an affirmative defense, however, does bear the burden of proof at trial.

In *Hannan*, the Tennessee Supreme Court ruled that a party moving for summary judgment who does not bear the burden of proof at trial may shift the burden of production to the nonmoving party if it (1) affirmatively negates an essential element of the nonmoving party's claim; or (2) shows that the nonmoving party cannot prove an essential element of the claim at trial.

This new standard is more difficult to meet than that set forth in *Celotex*, and results in fewer cases being resolved by summary judgment in Tennessee state courts, increasing the litigation costs of litigants in Tennessee state courts and encouraging forum shopping. The bill sets forth the Legislature's determination that the public policy of Tennessee is to discourage forum shopping between Tennessee state and federal courts in civil litigation, to encourage judicial economy, and to end weak cases before trial when they can be resolved by summary judgment.

Because the bill does not conflict with TRCP Rule 56 and is grounded in public policy concerns, it does not violate the separation of powers principles set forth in *State v. Mallard*, 40 S.W.3d 473 (Tenn. 2001). In *Mallard*, the Tennessee Supreme Court considered the application of a statute that required the admission of certain prior drug convictions of criminal defendants as a consideration in determining whether a particular object was drug paraphernalia. The statute appeared to directly conflict with Tennessee Rules of Evidence 404(b) on its face, since that rule generally requires exclusion of such evidence absent certain other conditions being met. The Court did not overturn the statute, but determined that the legislature intended it to be read so as not to conflict with the Tennessee Rules of Evidence based on principles of comity and separation of powers.

In *Martin v. Lear Corporation*, the Tennessee Supreme Court revisited the *Mallard* standard in determining that the Workers' Compensation statute was constitutional and did not impermissibly conflict with the TRCP 26.06 when it required doctors who would normally be considered "consulting experts" exempt from testifying to testify in workers' compensation cases. The Court distinguished

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the statute from the one at issue in *Mallard* because (a) it merely limited the application of Rule 26.06 in workers' compensation cases and (b) because both the rule and the statute were grounded in public policy concerns.

This bill does not limit summary judgment at all and does not conflict with Rule 56. It is a constitutional exercise of legislative power, which enacts the Legislature's public policy determination that summary judgment disposition of weak cases is favored in Tennessee to avoid needless litigation and forum shopping.

MOTION

Senator Berke moved that Rules 32, 33 and 37 be suspended for the introduction and immediate consideration of **Senate Joint Resolution No. 466**, out of order, which motion prevailed.

INTRODUCTION OF RESOLUTION

Senate Joint Resolution No. 466 by Senator Berke.
Memorials, Death -- Leroy Phillips, Jr.

On motion of Senator Berke, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Joint Resolution No. 466** was adopted.

A motion to reconsider was tabled.

CALENDAR NO. 3

FURTHER ACTION ON HOUSE BILL NO. 1641

Senator Finney declared Rule 13 on **House Bill No. 1641**.

On motion, Amendment No. 1 was adopted.

Thereupon, **House Bill No. 1641**, as amended, passed its third and final consideration by the following vote:

Ayes 18
Noes 11

Senators voting aye were: Beavers, Bell, Campfield, Gresham, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--18.

Senators voting no were: Barnes, Berke, Burks, Faulk, Finney, Harper, Henry, Herron, Marrero, Stewart and Tate--11.

A motion to reconsider was tabled.

**STATEMENT OF SENATOR BRIAN KELSEY
PURSUANT TO RULE 61**

May 20, 2011

Senator Kelsey Rule 61 Explanation of Vote
in favor of passage of House Bill 1641 on third consideration

The United States Supreme Court in *McDonnell Douglas Corp. vs. Green*, 411 U.S. 792 (1973), and subsequent decisions, established an allocation of the burden of production and an order for the presentation of proof in employment discrimination cases. Under the *McDonnell Douglas* framework, a plaintiff's *prima facie* case of discrimination may be rebutted if the defendant articulates a legitimate, nondiscriminatory reason for an adverse employment action, and the burden then shifts to the plaintiff to demonstrate that the defendant's proffered reason was not the real reason for the action taken but was a pretext for illegal discrimination. The *McDonnell Douglas* framework has been held applicable to motions for summary judgment in subsequent decisions of the United States Supreme Court and in decisions of federal courts in every circuit in the United States, including federal courts in the State of Tennessee.

In *Gossett vs. Tractor Supply Co., Inc.*, 320 S.W.3d 777 (Tenn. 2010), the Tennessee Supreme Court, in a 3-2 decision, held that the *McDonnell Douglas* framework was inapplicable at the summary judgment stage in Tennessee employment discrimination and retaliatory discharge cases.

The *McDonnell Douglas* framework serves to sharpen the inquiry into the critical question of whether intentional discrimination or retaliation has occurred, provides an orderly structure for managing the complexities of employment discrimination and retaliation cases, and is an appropriate framework for the consideration of evidence offered in employment discrimination and retaliation cases at all stages of the proceedings, including motions for summary judgment and trial.

The purposes of this bill are:

1) To establish the *McDonnell Douglas* framework as the appropriate and legally required framework for the consideration of evidence offered during all stages of the proceedings in employment discrimination and retaliation cases;

2) To expressly reject and legislatively overrule the decision of the three justice majority in *Gossett v. Tractor Supply Co., Inc.*, 320 S.W.3d 777 (Tenn. 2010), that the *McDonnell Douglas* framework is inapplicable at the summary judgment stage in Tennessee employment discrimination and retaliation cases; and

3) To revise the Tennessee common law with respect to claims for employment discrimination and retaliatory discharge.

Such determinations of public policy are within the purview of the Legislature. The National Federation of Independent Business and the Tennessee Chamber of Commerce advocated to me in favor of a "sole cause" standard. A "sole cause" standard would require the plaintiff to bear the burden of proving that the defendant's discriminatory intent was the sole reason for the retaliation or discriminatory action. Employment law plaintiffs attorneys, on the other hand, advocated to me against the bill altogether. I chose to draft Senate Judiciary Committee Amendment One and House Judiciary Committee Amendment One as a reasonable compromise between the two positions that

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were advocated by the interest groups. The plaintiff must demonstrate that the purported legitimate, nondiscriminatory reason given by the defendant was not the true reason for the challenged employment action and that the stated reason was a pretext for illegal discrimination or retaliation.

The bill does not purport to change the wording of any rule of procedure or to conflict with such wording. It pronounces the substantive law of who bears burdens of production and persuasion in certain employment law claims in Tennessee and how such burdens are met at all stages of the legal process.

Senate Bill No. 1775 -- Firearms and Ammunition -- As introduced, authorizes judges with certain training and permit to carry firearms in courtroom and under same circumstances law enforcement are currently allowed to carry. Amends TCA Title 39, Chapter 17.

On motion, Senate Bill No. 1775 was made to conform with **House Bill No. 2039**.

On motion, House Bill No. 2039, on same subject, was substituted for Senate Bill No. 1775.

On motion of Senator Beavers, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 2039** passed its third and final consideration by the following vote:

Ayes	28
Noes	0

Senators voting aye were: Barnes, Beavers, Burks, Campfield, Crowe, Faulk, Finney, Gresham, Harper, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--28.

A motion to reconsider was tabled.

Senate Bill No. 1798 -- Judgments -- As introduced, requires the Commissioner of Safety to revoke a person's license if that person is delinquent on paying litigation taxes, court costs or fines for one year; creates exceptions for those with employment or family hardships if they apply to the court in a sworn affidavit. Amends TCA Title 16; Title 40, Chapter 24, Part 1; Title 50 and Title 55.

On motion, Senate Bill No. 1798 was made to conform with **House Bill No. 1877**.

On motion, House Bill No. 1877, on same subject, was substituted for Senate Bill No. 1798.

On motion of Senator Beavers, Amendment No. 1 was withdrawn.

On motion of Senator Johnson, Amendment No. 2 was withdrawn.

On motion of Senator McNally, Amendment No. 3 was withdrawn.

On motion of Senator McNally, Amendment No. 4 was withdrawn.

Thereupon, **House Bill No. 1877** passed its third and final consideration by the following vote:

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Ayes 20
Noes 11

Senators voting aye were: Beavers, Bell, Campfield, Crowe, Faulk, Gresham, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--20.

Senators voting no were: Barnes, Berke, Burks, Finney, Harper, Henry, Herron, Kyle, Marrero, Stewart and Tate--11.

A motion to reconsider was tabled.

MOTION

Senator Stewart moved that **Senate Bills Nos. 1993, 1996, 2008 and 2017** be placed after **Senate Bills Nos. 2090 and 2114** on the calendar for Saturday, May 21, 2011, which motion prevailed.

RECALL OF BILL

On motion of Senator Campfield, **House Bill No. 432** was recalled from the Committee on Calendar.

REFERRAL OF BILL

Senator Campfield moved that House Bill No. 432 be rereferred to the Committee on Education, which motion prevailed.

MOTION

Senator Watson moved that **House Bill No. 257**, as amended, be considered next, out of order, which motion prevailed.

CALENDAR NO. 3

House Bill No. 257 -- Sunset Laws -- As introduced, extends the Tennessee medical laboratory board, June 30, 2016. Amends TCA Title 4, Chapter 29 and Title 68, Chapter 29, Part 1, as amended.

Senator Watson moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 4-29-231(a), is amended by deleting subdivision (49) in its entirety.

SECTION 2. Tennessee Code Annotated, Section 4-29-232(a), is amended by adding a new subdivision thereto, as follows:

() Tennessee medical laboratory board, created by § 68-29-109;

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SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 2 was adopted.

Thereupon, **House Bill No. 257**, as amended, passed its third and final consideration by the following vote:

Ayes	29
Noes	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Faulk, Finney, Gresham, Harper, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--29.

A motion to reconsider was tabled.

MOTION

Senator Yager moved that Rule 83(8) be suspended for the purpose of allowing the Committee on State and Local Government to meet to consider **Senate Joint Resolutions Nos. 353 and 354**; and **House Joint Resolutions Nos. 125, 197, 204, 397, 398 and 425** at 9:45 a.m., Saturday, May 21, 2011, which motion prevailed.

MOTION

Senator Tracy moved that Rule 83 be suspended for the purpose of allowing the Committee on Transportation and Safety to meet to consider **House Joint Resolutions Nos. 53, 179, 200, 217 and 304** at 9:30 a.m., Saturday, May 21, 2011, which motion prevailed.

MOTION

On motion of Senators Watson and Herron, their names were added as sponsors of **Senate Bill No. 42**.

On motion of Senator Bell, his name was added as sponsor of **Senate Bills Nos. 261, 263, 267 and 528**.

On motion of Senators Barnes, Beavers, Bell, Berke, Burks, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Marrero, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Woodson and Yager, their names were added as sponsors of **Senate Bill No. 650**.

On motion of Senators Kyle and Tracy, their names were added as sponsors of **Senate Bill No. 771**.

On motion of Senators Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey, their names were added as sponsors of **Senate Bill No. 944**.

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On motion of Mr. Speaker Ramsey, his name was added as sponsor of **Senate Bill No. 995**.

On motion of Senator Ford, her name was added as sponsor of **Senate Bill No. 1025**.

On motion of Senator Barnes, his name was added as sponsor of **Senate Bill No. 1111; and House Joint Resolution No. 501**.

On motion of Senators Stewart, Marrero, Ketron, Tate and Ford, their names were added as sponsors of **Senate Bill No. 1224**.

On motion of Senators Gresham, Stewart and Norris, their names were added as sponsors of **Senate Bill No. 1234**.

On motion of Senator Burks, her name was added as sponsor of **Senate Bill No. 1284**.

On motion of Senator Herron and Mr. Speaker Ramsey, their names were added as sponsors of **Senate Bill No. 1420**.

On motion of Senators Tracy and Burks, their names were added as sponsors of **Senate Bill No. 1456**.

On motion of Senators Burks and Barnes, their names were added as sponsors of **Senate Bill No. 1650**.

On motion of Senators Stewart, Campfield, Roberts, Ketron and Berke, their names were added as sponsors of **Senate Bill No. 1669**.

On motion of Senators Watson, Marrero, Yager and Ford, their names were added as sponsors of **Senate Bill No. 1707**.

On motion of Senators Johnson and Beavers, their names were added as sponsors of **Senate Joint Resolution No. 119**.

On motion of Senators Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Yager and Mr. Speaker Ramsey, their names were added as sponsors of **Senate Joint Resolution No. 308**.

On motion, all Senators' names were added as sponsors of **Senate Joint Resolution No. 454**.

On motion of Senators Burks, Barnes, Beavers, Bell, Berke, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey, their names were added as sponsors of **Senate Joint Resolution No. 455**.

On motion of Senator Harper, her name was added as sponsor of **Senate Joint Resolution No. 458**.

On motion of Senator Watson, his name was added as sponsor of **Senate Joint Resolution No. 466**.

On motion of Senator Johnson, his name was added as sponsor of **Senate Joint Resolution No. 467**.

On motion of Senator Stewart, his name was added as sponsor of **Senate Resolution No. 26**.

On motion of Senator Yager, his name was added as prime sponsor of **Senate Resolution No. 26**.

On motion of Senator Herron, his name was added as sponsor of **House Joint Resolution No. 165**.

On motion of Senator Woodson, her name was added as sponsor of **House Joint Resolution No. 350**.

ENGROSSED BILLS

May 20, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bill No. 42, and find same correctly engrossed and ready for transmission to the House.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 20, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bill No. 49, and find same correctly engrossed and ready for transmission to the House.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 20, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bill No. 725, and find same correctly engrossed and ready for transmission to the House.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 20, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bills Nos. 772, 1348, 1707 and 1915; and find same correctly engrossed and ready for transmission to the House.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 20, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bills Nos. 932, 943 and 1420; and find same correctly engrossed and ready for transmission to the House.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 20, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bill No. 1550; and Senate Joint Resolution No. 466; and find same correctly engrossed and ready for transmission to the House.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 20, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Joint Resolutions Nos. 119 and 461, and find same correctly engrossed and ready for transmission to the House.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 20, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Joint Resolutions Nos. 141, 454, 455, 458, 459 and 460; and find same correctly engrossed and ready for transmission to the House.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

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ENGROSSED BILLS

May 20, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Joint Resolutions Nos. 462, 463, 464 and 465; and find same correctly engrossed and ready for transmission to the House.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 20, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Joint Resolutions Nos. 321, 328 and 467; and find same correctly engrossed and ready for transmission to the House.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 110, 172, 914, 1989 and 2007; passed by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 991, 1834, 1994 and 1995; passed by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 1023, 1378 and 2152; passed by the House.

JOE MCCORD,
Chief Clerk.

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MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 1353, passed by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 1358 and 1641, passed by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 2135, 2136, 2154 and 2158; passed by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 2138 and 2156, passed by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 2139, passed by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 219 and 340, adopted, for the Senate's action.

JOE MCCORD,
Chief Clerk.

FRIDAY, MAY 20, 2011 -- 38TH LEGISLATIVE DAY

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolution No. 360, adopted, for the Senate's action.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 425, 498, 499, 500, 501, 502 and 503; adopted, for the Senate's action.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 424, 730, 775 and 1671; substituted for House Bills on same subjects and passed by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 439 and 1707, substituted for House Bills on same subjects and passed by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 827, substituted for House Bill on same subject and passed by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 932 and 1348, substituted for House Bills on same subjects and passed by the House.

JOE MCCORD,
Chief Clerk.

FRIDAY, MAY 20, 2011 -- 38TH LEGISLATIVE DAY

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 1431, substituted for House Bill on same subject and passed by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 1721, substituted for House Bill on same subject and passed by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 113. The House adopted the Conference Committee Report and made it the action of the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 214, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 420, 421, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453 and 456; concurred in by the House.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 358, 359, 361, 362, 363, 364, 365, 366, 368, 369, 437 and 438; concurred in by the House.

JOE MCCORD,
Chief Clerk.

FRIDAY, MAY 20, 2011 -- 38TH LEGISLATIVE DAY

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolution No. 308. The House lifted the tabling motion and reconsidered Senate Joint Resolution No. 308, and concurred in Senate Joint Resolution No. 308.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolution No. 127. Senate Joint Resolution No. 127 was read three separate times on three separate days and concurred in by over a two thirds majority vote of the House of Representatives of the One Hundred Seventh General Assembly of the State of Tennessee, pursuant to Article XI, Section 3 of the Constitution of Tennessee.

JOE MCCORD,
Chief Clerk.

ENROLLED BILLS

May 20, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Bills Nos. 16, 609, 1007, 1431, 1539, 1659 and 1721; and find same correctly enrolled and ready for the signatures of the Speakers.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

ENROLLED BILLS

May 20, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Resolutions Nos. 51, 52, 53, 54, 55, 56, 57, 58, 59, 61, 62, 63, 64 and 65; and find same correctly enrolled and ready for the signature of the Speaker.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 171, 240, 241, 242, 243, 246, 247, 250, 300, 395, 515, 544, 600, 789, 962, 1151, 1172, 1190, 1243, 1625, 1869, 1881, 2116 and 2150; for the signature of the Speaker.

JOE MCCORD,
Chief Clerk.

FRIDAY, MAY 20, 2011 -- 38TH LEGISLATIVE DAY

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 53, 125, 179, 197, 200, 217, 304, 397, 425, 498, 499, 500, 501, 502 and 503; for the signature of the Speaker.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 194, 360, 398, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514 and 515; for the signature of the Speaker.

JOE MCCORD,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 439, 441, 443, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496 and 497; for the signature of the Speaker.

JOE MCCORD,
Chief Clerk.

SIGNED

May 20, 2011

The Speaker announced that he had signed the following: Senate Bills Nos. 16, 609, 1007, 1431, 1539, 1659 and 1721.

SIGNED

May 20, 2011

The Speaker announced that he had signed the following: Senate Bills Nos. 170, 178, 206, 763, 813, 814, 1258, 1288, 1602, 1776 and 1788.

SIGNED

May 20, 2011

The Speaker announced that he had signed the following: Senate Resolutions Nos. 51, 52, 53, 54, 55, 56, 57, 58, 59, 61, 62, 63, 64 and 65.

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SIGNED

May 20, 2011

The Speaker announced that he had signed the following: House Bills Nos. 171, 240, 241, 242, 243, 246, 247, 250, 300, 395, 515, 544, 600, 789, 962, 1151, 1172, 1190, 1243, 1625, 1869, 1881, 2116 and 2150.

SIGNED

May 20, 2011

The Speaker announced that he had signed the following: House Joint Resolutions Nos. 439, 441, 443, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496 and 497.

MESSAGE FROM THE HOUSE

May 20, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 16, 170, 178, 206, 609, 763, 813, 814, 1007, 1258, 1288, 1431, 1539, 1602, 1659, 1721, 1776 and 1788; signed by the Speaker.

JOE MCCORD,
Chief Clerk.

REPORT OF CHIEF ENGROSSING CLERK

May 20, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Bills Nos. 170, 178, 206, 763, 813, 814, 1258, 1288, 1602, 1776 and 1788; for his action.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

MESSAGE FROM THE GOVERNOR

May 20, 2011

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Bills Nos. 96, 356, 413, 414, 611, 753, 798, 845, 854, 912, 1030, 1087, 1173, 1213, 1271, 1391, 1538, 1557, 1572, 1674, 1785, 1824, 2009 and 2103; and Senate Joint Resolutions Nos. 30 and 58; with his approval.

HERBERT H. SLATERY III,
Counsel to the Governor.

FRIDAY, MAY 20, 2011 -- 38TH LEGISLATIVE DAY

MESSAGE FROM THE GOVERNOR

May 20, 2011

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Joint Resolutions Nos. 309, 310, 311, 312, 313, 314, 316, 317, 318, 319, 320, 322, 323 and 324; with his approval.

HERBERT H. SLATTERY III,
Counsel to the Governor.

MESSAGE FROM THE GOVERNOR

May 20, 2011

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Joint Resolution No. 436, with his approval.

HERBERT H. SLATTERY III,
Counsel to the Governor.

ADJOURNMENT

Senator Norris moved the Senate adjourn until 10:00 a.m., Saturday, May 21, 2011, which motion prevailed.